

FINANCE COMMITTEE

MAY 18, 2016

7:00 PM

Aldermanic Chamber

ROLL CALL

PUBLIC COMMENT

DISCUSSION

Discussion of Nashua Artists and Court Street

COMMUNICATIONS

From: Mayor Jim Donchess

Re: Emergency Change Order – Nortax Po #126247 – Repair Excavator

From: Dan Kookan, Purchasing Manager

Re: Purchase of Six (6) Sets of Globe Classic Metro Advance Personal Protective Equipment (PPE)
(Value: \$10,250); Department: 152 Fire; Fund: General Fund Operating Budget; Account
Classification: 61 Supplies And Materials

From: Dan Kookan, Purchasing Manager

Re: Award Of Library Children's Room Flooring Contract (Value: \$29,715); Department: Library;
Fund: Library Lost/Damaged Fines Account; Account Classification: 71 Equipment

From: Dan Kookan, Purchasing Manager

Re: To Approve Contracts for Admin Services to Anthem BlueCross and Blue Shield, Harvard Pligrim
Healthcare and the Hartford (Value: Not To Exceed \$1,395,000); Department: Human Resources;
Fund: Benefits Self Insurance Fund

UNFINISHED BUSINESS – None

NEW BUSINESS – None

TABLED IN COMMITTEE

From: Dan Kookan, Purchasing Manager

Re: LED Street Light Conversion Project (Value: \$1,455,694)
Department: 161 Street; Fund: Bond; Activity: LED Lighting

- Tabled – 5/3/16

DISCUSSION

RECORD OF EXPENDITURES

PUBLIC COMMENT

NON-PUBLIC SESSION

ADJOURNMENT

Jim Donchess
MAYOR • CITY OF NASHUA

To: Board of Aldermen
Filed With: Patricia Piecuch, City Clerk
From: Jim Donchess
Date: May 11, 2016
Re: Emergency Change Order – Nortrax PO #126247 – Repair Excavator

Pursuant to 5-90 (G) of the NRO, I have authorized an emergency change order for the repair of the excavator at the Four Hills Landfill in the amount of \$18,893.21 to Purchase Order #126247 with Nortrax.

Nortrax originally quoted the replacement of the hydraulic pump coupler in #30 the John Deere 270D Excavator used at the Four Hills Landfill for loading demolition into trailers for transport. The Nortrax technician removed the hydraulic pump assembly to replace the hydraulic pump coupling. During the removal and inspection process it was found that the hydraulic pump shaft was cracked from the catastrophic failure of the hydraulic pump coupling. When the shaft cracked internal damage to the pump occurred contaminating the hydraulic system.

Specifically, this change order will provide for the items listed below:

Replacement of the hydraulic pump to be completed by Tuesday, May 16, 2016.

Nortrax is the New Hampshire dealer for John Deere Equipment and has the field equipment and trained technicians to replace the pump, coupler assembly and clean the hydraulic system at the landfill and avoid further charges for low bed transportation to Pembroke.



THE CITY OF NASHUA

Financial Services

Purchasing Department

"The Gate City"

April 28, 2016
Memo #16-134

TO: MAYOR DONCHESS
FINANCE COMMITTEE

SUBJECT: PURCHASE OF SIX (6) SETS OF GLOBE CLASSIC METRO ADVANCE PERSONAL
PROTECTIVE EQUIPMENT (PPE) (VALUE: \$10,250)
DEPARTMENT: 152 FIRE; FUND: GENERAL FUND OPERATING BUDGET
ACCOUNT CLASSIFICATION: 61 SUPPLIES AND MATERIALS

Please see the attached communication from Deputy Fire Chief George A. Walker to Brian Rhodes, Assistant Chief of Nashua Fire Rescue dated April 25, 2016 for information related to this request.

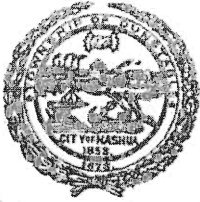
Pursuant to NRO § 5-84 (A) (7) Purchases under extensions of contracts when no price increase exceeds 10%. This price is the same as our fall of 2015 price.

Nashua Fire Rescue and the Purchasing Department recommend the purchase of these products from **Bergeron Protective Clothing of Epsom, NH** in the amount of **\$10,250**.

Respectfully,

Dan Kookan
Purchasing Manager

Cc: S. Galipeau B. Rhodes G. Walker J. Graziano



Nashua Fire Rescue
Administrative Office
70 East Hollis Street, Nashua, NH 03060
www.nashuafire.com

Deputy Chief George Walker
Group 2- Station 4
Nashua Fire Rescue
(603) 594-3645
Walkerg@nashuanh.gov

To: Brian D. Rhodes, Assistant Chief of Department
From: George A Walker, Deputy Fire Chief
Re: PPE Procurement
Date: April 25, 2016

Chief Rhodes,

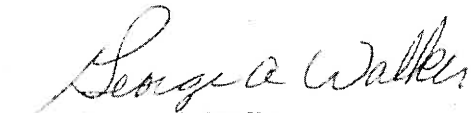
I am requesting permission to move forward with the procurement of 6 (six) sets of Globe Classix Metro Advance Personal Protective Equipment (PPE) quoted at \$1,700.66 per set. The total for this order is \$ 10,250.00 including shipping, from Bergeron Protective Clothing.

This is the same pricing as the fall 2015 order which is part of the 3 year contracted price increase per year of no more that 5% through June 30, 2016.

5 sets will be issued to newly hired (May 2016) members, and one set will replace the oldest in service set of PPE.

I have included the specifications for the PPE that will be manufactured by Globe Manufacturing, a New Hampshire Company.

Respectfully,


George A. Walker
Deputy Fire Chief



1024 Suncook Valley Hwy., Unit 5-D
Epsom NH, 03234
TEL: 603.736.8500
www.BergeronProtectiveClothing.com

QUOTATION

No. : 200351

Doc. Date : 04/15/2016
Payment Terms : NET30
Valid Until: 06/30/2016
Customer PO:
Salesperson : Maureen Gnecco
Page : Page 1 of 2

Bill To

Nashua Fire Rescue
City Of Nashua
Attn: Accounts Payable
PO Box 2019
Nashua NH 03061-2019

Ship To :

Deputy George Walker
70 Hollis East Street
Nashua NH 03060-0306

Quantity	Style	Description	Unit Price	Your Cost
6	K27LMBM	Globe Classix Metro Jacket, Advance Color: Gold -Advance Outer shell -Caldura SL2i Thermal Liner -Crosstech Black Moisture barrier -3-inch Lime/yellow triple trim NYC style (officers red/orange) -3-inch Scotchlite letters arched row B: "NASHUA" -Snaps in/Hook and Dee out closure -2 x10 x 6 half high pockets -Full Kevlar lined pockets -Sunlance Flashlight holder-right chest -Self mic strap on stormflap, top slanted towards left side -Self mic strap above utility pocket -Utility pocket 2x4x8 left chest -Black Gemini XT cuffs -Nomex wrister with thumb loop -Crosstech adjustable sleeve wells -No trim on bottom of extended back	965.75	5,794.52
6	427LMB	Globe, G-Xtreme Pant, Advance Color: Gold	734.91	4,409.46

Financing options available on some turnout gear purchases. Prices quoted do not include shipping and handling. Shipping is FOB factory. This quote is based on current prices which are subject to change by the Manufacturer without notice. TERMS are NET 30 DAYS.

From: BERGERON PROTECTIVE CLOTHING LLC
To: Nashua Fire Rescue

Document No. : 200351
Doc. Date : 04/15/2016

Quantity	Style	Description	Unit Price	Your Cost
		-Advance		
		-Caldura SL2i Thermal Liner		
		-Crosstech Black Moisture Barrier		
		-3-inch Lime/yellow triple trim at cuff (officers red/orange)		
		-Zipper/Velcro fly closure		
		-Nomex belt closure		
		-Dragon hide knees		
		-Silizone padded knees sewn on liner		
		-2x10x10 pockets		
		-Kevlar lined expansion pockets		
		-Black Gemini XT self cuffs		

Subtotal	10,203.98
Shipping & Handling	39.00
Total	10,242.98

Financing options available on some turnout gear purchases. Prices quoted do not include shipping and handling. Shipping is FOB factory. This quote is based on current prices which are subject to change by the Manufacturer without notice. TERMS are NET 30 DAYS.



THE CITY OF NASHUA

Financial Services

Purchasing Department

"The Gate City"

May 12, 2016
Memo #16-138

TO: MAYOR DONCHESS
FINANCE COMMITTEE

SUBJECT: AWARD OF LIBRARY CHILDREN'S ROOM FLOORING CONTRACT (VALUE: \$29,715)
DEPARTMENT: LIBRARY; FUND: LIBRARY LOST/DAMAGED FINES ACCOUNT
ACCOUNT CLASSIFICATION: 71 EQUIPMENT

Please see attached communication from Jennifer McCormack, Library Director dated May 2, 2016 for the information related to this contract award.

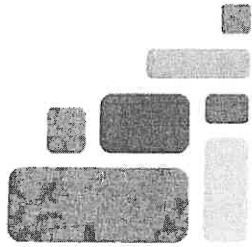
Pursuant to **§ 5-78 Major purchases (greater than \$10,000)** A. All supplies and contractual services, except as otherwise provided herein, when the estimated cost thereof shall exceed \$10,000 shall be purchased by formal, written contract from the lowest responsible bidder, after due notice inviting bids.

The Library Director and the Purchasing Department recommend awarding the contract for this purchase to **Atkinson Carpet and Flooring of Haverill, MA** in the amount of **\$29,715**.

Respectfully,

Dan Kookan
Purchasing Manager

Cc: J McCormack J Graziano



Nashua Public Library

May 2, 2016

To: John Griffin, CFO
From: Jennifer McCormack, Director
RE: RFQ0173-042816 Children's Room flooring

Mr. Griffin:

The current carpeting in the Children's room is stained, worn and unsafe due to its poor condition. The library is replacing this flooring with carpet tiles of the same type recently installed at City Hall. Included in this project is the moving of stacks and materials in the Children's room so the new flooring will extend under all of the stacks.

An invitation for bids (RFQ0173-042816) was sent to 8 vendors and posted on the city's website on April 4, 2016. A mandatory pre-bid conference was held on Friday April 8, 2016 and was attended by representatives from 2 companies. We received bids from both of those companies:

Atkinson Carpet \$29,715.00

AJ Rose Carpets and Flooring \$37,897.19

Based on our evaluation of the proposals I am recommending that Atkinson Carpet be awarded the contract for this project. Their bid was lower and they have been recommended by Jay Hunnewell for their work on the carpet installation in City Hall.

This project will be paid for from the library's Lost/Damaged fines account, with installation expected to occur in July, 2016.

Sincerely,

Jennifer McCormack, Library Director

PROPOSAL

May 5, 2016

To: Nashua Public Library

2 Court Street

Nashua, NH 03060

Attn: Jennifer McCormack

Re: Children's Area Carpet Replacement

Thank you for the opportunity to quote this project. We propose the following:

Supply and install 639.86 sq. yds. of Interface carpet tiles in style Top Stitch, color Pewter, and 29.9 sq. yds. of style Viva Colores in colors Ceruleo, Naranja, Rojo, Verde Primavera, and Amarillo (1 box = 20 tiles of each color) and Johnsonite 4" rubber base in color TBD. Pricing includes receiving and redelivering materials, rip up and removal of existing materials, minor floor prep per manufacturer's specifications, including scrapping up and vacuuming existing adhesives and filling minor cracks and indentations with Portland based cement, moving and lifting bookshelves, as well as book removal and replacement, Tactiles and adhesives, freight, and labor during normal working hours.

TOTAL = \$29,715.00

Please call with any questions.

Sincerely,

Andrea Hood



STANDARD FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR

This agreement is made:

BETWEEN the Owner: **City of Nashua, New Hampshire**
 229 Main Street
 Nashua, NH 03060-2019

And the Contractor: Atkinson Carpet
 11 Rogers Rd.
 Haverhill, MA 01835

and its successors, transferees and assignees (together "Contractor")

For the following Project: RFQ0173-042816 Children's Room flooring at the Nashua Public Library

ARTICLE 1 – THE CONTRACT DOCUMENTS

The Contractor shall complete the work described in the Contract Documents for this project. The documents consist of:

1. This Agreement signed by the Owner and Contractor, including the General Terms and Conditions;
2. Scope of Work;
3. Drawings and Specifications provided in the bid documents;
4. Change Order Form;
5. Insurance Certificate;
6. Written change orders for minor changes in the Work issued after execution of this Agreement; and
7. Fully Executed Owner Purchase Order

The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, proposals, representations or agreements, either written or oral. Any other documents which are not listed in this Article are not part of the Contract.

In the event of a conflict between the terms of the Proposals and the terms of this Agreement, a written change order and/or fully executed Owner Purchase Order, the terms of this Agreement, the written change order or the fully executed Owner Purchase Order shall control over the terms of the Proposals

ARTICLE 2 – DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION DATE

The date of commencement shall be the date of the Notice to Proceed. Substantial Completion shall be **On or before August 30, 2016**.

ARTICLE 3 – CONTRACT SUM

Subject to additions and deductions by Change Order, the Owner shall pay Contractor, in accordance with the Contract Documents, the Contract Sum of:

Twenty Nine Thousand Seven Hundred Fifteen (\$ 29,715)

The Contract Sum shall include all items and services necessary for the proper execution and completion of the Work.

ARTICLE 4 – INSURANCE AND INDEMNIFICATION

Contractor shall carry and maintain in effect during the performance of services under this contract:

- General liability insurance in the amount of \$1,000,000 per occurrence; \$2,000,000 aggregate;
- Motor Vehicle Liability: \$1,000,000 Combined Single Limit;
 *Coverage must include all owned, non-owned and hired vehicles.
- Workers' Compensation Coverage in compliance with the State of NH Statutes, \$100,000/\$500,000/\$100,000.

Contractor and subcontractors at every tier will fully comply with NH RSA Chapter 281-A, "Workers' Compensation".

The parties agree that Contractor shall have the status of and shall perform all work under this contract as an independent contractor, maintaining control over all its consultants, sub consultants, contractors, or subcontractors. The only contractual relationship created by this contract is between the City and Contractor, and nothing in this contract shall create any contractual relationship between the City and Contractor's consultants, sub consultants, contractors, or subcontractors. The parties also agree that Contractor is not a City employee and that there shall be no:

1. Withholding of income taxes by the City;
2. Industrial insurance coverage provided by the City;
3. Participation in group insurance plans which may be available to employees of the City;
4. Participation or contributions by either the independent contractor or the City to the public employee's retirement system;
5. Accumulation of vacation leave or sick leave provided by the City;
6. Unemployment compensation coverage provided by the City.

Contractor will provide the Owner with certificates of insurance for coverage as listed below and endorsements affecting coverage required by the contract within ten calendar days after the City issues the notice of award. The Owner requires thirty days written notice of cancellation or material change in coverage. The certificates and endorsements for each insurance policy must be signed by a person authorized by the insurer and who is licensed by the State of New Hampshire. **General Liability and Auto Liability policies must name the Owner as an additional insured** and reflect on the certificate of insurance. Contractor is responsible for filing updated certificates of insurance with the Owner's Risk Management Department during the life of the contract.

- All deductibles and self-insured retentions shall be fully disclosed in the certificate(s) of insurance.
- If aggregate limits of less than \$2,000,000 are imposed on bodily injury and property damage, Contractor must maintain umbrella liability insurance of at least \$1,000,000. All aggregates must be fully disclosed on the required certificate of insurance.

- The specified insurance requirements do not relieve Contractor of its responsibilities or limit the amount of its liability to the City or other persons, and Contractor is encouraged to purchase such additional insurance, as it deems necessary.
- The insurance provided herein is primary, and no insurance held or owned by the Owner shall be called upon to contribute to a loss.
- Contractor is responsible for and required to remedy all damage or loss to any property, including property of the City, caused in whole or part by Contractor or anyone employed, directed, or supervised by Contractor.

Regardless of any coverage provided by any insurance, Contractor agrees to indemnify and shall defend and hold harmless the City, its agents, officials, employees and authorized representatives and their employees from and against any and all suits, causes of action, legal or administrative proceedings, arbitrations, claims, demands, damages, liabilities, interest, attorney's fees, costs and expenses of any kind or nature in any manner caused, occasioned, or contributed to in whole or in part by reason of any negligent act, omission, or fault or willful misconduct, whether active or passive, of Contractor or of anyone acting under its direction or control or on its behalf in connection with or incidental to the performance of this contract. Contractor's indemnity, defense and hold harmless obligations, or portions thereof, shall not apply to liability caused by the sole negligence or willful misconduct of the party indemnified or held harmless.

General Terms and Conditions

ARTICLE 5 – GENERAL PROVISIONS

1. The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a written modification.
2. The term “Work” means the construction and services required by the Contract Documents, and include all other labor, materials, equipment and services provided by the Contractor to fulfill the Contractor’s obligations.
3. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all.
4. In the case of a discrepancy, calculated dimensions will govern over scaled dimensions, Contract Drawings will govern over Standard Specifications, and Technical Specifications will govern over both Contract Drawings and Standard Specifications. In the case of a discrepancy between the Agreement and other Contract Documents, the more specific or stringent obligation or requirement to the benefit of the Owner shall take precedence.
5. The Contractor shall take no advantage of any apparent error or omission in the Contract Drawings or Technical Specifications, and the Engineer will be permitted to make such corrections and interpretations as may be deemed necessary to fulfill the intent of the Contract Documents.

ARTICLE 6 – OWNER

1. Except for permits and fees, which are the responsibility of the Contractor under the Contract Documents, the Owner shall obtain and pay for other necessary approvals, easements, assessments and charges.
2. If the Contractor fails to correct Work that is not in accordance with the Contract Documents, the Owner may direct the Contractor in writing to stop the Work until the correction is made.
3. If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven day period after receipt of written notice from the Owner to correct such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies, correct such deficiencies. In such case, a Change Order shall be issued deducting the cost of correction from payments due the Contractor.
4. The Owner reserves the right to perform construction or operations related to the project with the Owner’s own forces, and to award separate contracts in connection with other portions of the project.
5. The Contractor shall coordinate and cooperate with separate Contractors employed by the Owner.
6. Costs caused by delays or by improperly timed activities or defective construction shall be borne by the responsible party.

ARTICLE 7 – CONTRACTOR

1. Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.
2. The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner. Before commencing activities, the Contractor shall: (1) take field measurements and verify field conditions; (2) carefully compare this and other information known to the Contractor with the Contract Documents; and (3) promptly report errors, inconsistencies or omissions discovered to the Owner.
3. The Contractor shall supervise and direct the Work, using the Contractor’s best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work.

4. The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner the names of subcontractors or suppliers for each portion of the Work. The Owner will promptly reply to the Contractor in writing if, after due investigation, he has reasonable objection to the subcontractors or suppliers listed.
5. Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, utilities, transportation, and other facilities and services necessary for proper execution and completion of the work.
6. The Contractor shall deliver, handle, store and install materials in accordance with manufacturers' instructions.
7. The Contractor warrants to the Owner that (1) materials and equipment furnished under the contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the Contract Documents.
8. The Contractor shall pay sales, consumer, use and similar taxes that are legally required when the Contract is executed.
9. The Contractor shall obtain and pay for the building permit and other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work.
10. The Contractor shall comply with and give notices required by agencies having jurisdiction over the Work. If the Contractor performs Work knowing it to be contrary to laws, statutes, ordinances building codes, and rules and regulations without notice to the Owner, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs. The Contractor shall promptly notify the Owner in writing of any known inconsistencies in the Contract Documents with such governmental laws, rules and regulations.
11. The Contractor shall promptly review, approve in writing and submit Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents. Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents.
12. The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits, the Contract Documents and the Owner.
13. The Contractor shall be responsible for cutting, fitting or patching required completing the Work or to make its parts fit together properly.
14. The Contractor shall keep the premises and surrounding area free from accumulation of debris and trash related to the Work.
15. Contractor warrants and guarantees to Owner, for years, upon completion of work, that all Work will be in accordance with the Contract Documents and will not be defective. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
 - Abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
 - Normal wear and tear under normal usage.

ARTICLE 8 – CHANGES IN THE WORK

1. After execution of the Contract, changes in the Work may be accomplished by Change Order or by order for a minor change in the Work. The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly.
2. A Change Order shall be a written order to the Contractor signed by the Owner to change the Work, Contract Sum or Contract Time.
3. Change Order requests must include material and equipment cost plus labor with a profit margin of no more than 10%. Change Orders may require approval by the Owner Board of Public Works and the Owner Finance Committee vote prior to proceeding.
4. The Owner will have authority to order minor changes in the Work not involving changes in the Contract Sum or the Contract Time and not inconsistent with the intent of the Contract Documents.

Such changes shall be written orders and shall be binding on the Owner and Contractor. The Contractor shall carry out such written orders promptly.

5. If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time shall be subject to equitable adjustment following authorization of the Owner to the charges.

ARTICLE 9 – TIME

1. Time limits stated in the Contract Documents are of the essence to the Contract.
2. If the Contractor is delayed at any time in progress of the Work by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control, the Contract Time shall be extended by Change Order for such reasonable time as may be determined.

ARTICLE 10 – PAYMENTS AND COMPLETION

1. The Contract Sum stated in the Agreement, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.
2. At least ten days before the date established for each progress payment, the Contractor shall submit an itemized Application for Payment for operations completed in accordance with the values stated in the Agreement. Such application shall be supported by such data substantiating the Contractor's right to payment as the Owner may reasonably require.
3. Application for Payment performed under this agreement shall be submitted directly to:

City of Nashua
Accounts Payable
PO Box 2019
Nashua, NH 03061-2019
Attn:

To facilitate the proper and timely payment of applications, the Owner requires that all applications contain a valid **PURCHASE ORDER NUMBER**.

4. The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or other encumbrances adverse to the Owner's interests.
5. OWNER shall make payments on the basis of Contractors Application for Payment, approximately **30** days from the time the **final** payment application is received by the Owner, depending upon the timing of submittals and approvals.
6. The Contractor shall promptly pay each Subcontractor and material supplier out of the amount paid to the Contractor on account of such entities' portion of the Work.
7. The Owner shall have no responsibility for the payment of money to a Subcontractor or material supplier.
8. An Application for Payment, a progress payment, or partial or entire use or occupancy of the project by the Owner shall not constitute acceptance of Work not in accordance with the requirements of the Contract Documents.
9. Substantial completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use.

10. When the Work or designated portion thereof is substantially complete, the Contractor and Owner shall establish responsibilities for completion and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.
11. Upon receipt of a final Application for Payment, the Owner will inspect the Work. When he finds the Work acceptable and the Contract fully performed, the Owner will promptly issue a final Certificate for Payment.
12. Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 11- PROTECTION OF PERSONS AND PROPERTY

1. The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Contract. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, or by anyone for whose acts the Contractor may be liable.

ARTICLE 12 – CORRECTION OF WORK

1. The Contractor shall promptly correct Work rejected by the Owner as failing to conform to the requirements of the Contract Documents. The Contractor shall bear the cost of correcting such rejected work
2. In addition to the Contractor's other obligations including warranties under the Contract, the Contractor shall, for a period of one year after Substantial Completion, correct work not conforming to the requirements of the Contract Documents.
3. If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it and the Contractor shall reimburse the Owner for the cost of the correction.

ARTICLE 13 – PROHIBITED INTERESTS

Contractor shall not allow any officer or employee of the City to have any indirect or direct interest in this contract or the proceeds of this contract. Contractor warrants that no officer or employee of the City has any direct or indirect interest, whether contractual, non-contractual, financial or otherwise, in this contract or in the business of the Contractor. Contractor also warrants that it presently has no interest and that it will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this contract. Contractor further warrants that no person having such an interest shall be employed in the performance of this contract. If any such interest comes to the attention of Contractor at any time, a full and complete disclosure of the interest shall be immediately made in writing to the City. If City determines that a conflict exists and was not disclosed to the City, it may terminate the contract at will or for cause.

ARTICLE 14 – TERMINATION OF THE CONTRACT

1. **Termination, Abandonment, Or Suspension At Will.** The Owner, in its sole discretion, shall have the right to terminate, abandon, or suspend all or part of the project and contract at will. If the Owner chooses to terminate, abandon, or suspend all or part of the project, it shall provide Contractor 10 day's written notice of its intent to do so.

If all or part of the project is suspended for more than 90 days, the suspension shall be treated as a termination at will of all or that part of the project and contract.

Upon receipt of notice of termination, abandonment, or suspension at will, Contractor shall:

- a. Immediately discontinue work on the date and to the extent specified in the notice.

- b. Provide the Owner with a list of all unperformed services.
- c. Place no further orders or sub-contracts for materials, services, or facilities, other than as may be necessary or required for completion of such portion of work under the contract that is not terminated.
- d. Immediately make every reasonable effort to obtain cancellation upon terms satisfactory to the Owner of all orders or sub contracts to the extent they relate to the performance of work terminated, abandoned, or suspended under the notice, assign to the Owner any orders or sub contracts specified in the notice, and revoke agreements specified in the notice.
- e. Not resume work after the effective date of a notice of suspension until receipt of a written notice from the Owner to resume performance.

In the event of a termination, abandonment, or suspension at will, Contractor shall receive all amounts due and not previously paid to Contractor for work satisfactorily completed in accordance with the contract prior to the date of the notice and compensation for work thereafter completed as specified in the notice. No amount shall be allowed or paid for anticipated profit on unperformed services or other unperformed work.

2. **Termination for Cause.** This agreement may be terminated by the Owner on 10 calendar day's written notice to Contractor in the event of a failure by Contractor to adhere to any or all the terms and conditions of the contract or for failure to satisfactorily, in the sole opinion of the Owner, to complete or make sufficient progress on the work in a timely and professional manner. Contractor shall be given an opportunity for consultation with the Owner prior to the effective date of the termination. Contractor may terminate the contract on 10 calendar days written notice if, through no fault of Contractor, the Owner fails to pay Contractor for 45 days after the date of approval by the Owner of any Application for Payment.

Upon receipt of notice of termination for cause, Contractor shall:

- a. Immediately discontinue work on the date and to the extent specified in the notice.
- b. Provide the Owner with a list of all unperformed services.
- c. Place no further orders or sub-contracts for materials, services, or facilities, other than as may be necessary or required for completion of such portion of work under the contract that is not terminated.
- d. Immediately make every reasonable effort to obtain cancellation upon terms satisfactory to the Owner of all orders or sub contracts to the extent they relate to the performance of work terminated, abandoned, or suspended under the notice, assign to the Owner any orders or sub contracts specified in the notice, and revoke agreements specified in the notice.
- e. Not resume work after the effective date of a notice of termination unless and until receipt of a written notice from the Owner to resume performance.

In the event of a termination for cause, Contractor shall receive all amounts due and not previously paid to Contractor for work satisfactorily completed in accordance with the contract prior to the date of the notice, less all previous payments. No amount shall be allowed or paid for anticipated profit on unperformed services or other unperformed work. Any such payment may be adjusted to the extent of any additional costs occasioned to the Owner by reasons of Contractor's failure. Contractor shall not be relieved of liability to the Owner for damages sustained from the failure, and the Owner may withhold any payment to the Contractor until such time as the exact amount of damages due to the Owner is determined. All claims for payment by the Contractor must be submitted to the Owner within 30 days of the effective date of the notice of termination.

If after termination for the failure of Contractor to adhere to any of the terms and conditions of the contract or for failure to satisfactorily, in the sole opinion of the Owner, to complete or make sufficient progress on the work in a timely and professional manner, it is determined that Contractor had not so failed, the termination shall be deemed to have been a termination at will. In that event, the Owner shall, if necessary, make an adjustment in the compensation paid to Contractor such that Contractor receives total compensation in the same amount as it would have received in the event of a termination-at-will.

General Provisions for Termination. Upon termination of the contract, the Owner may take over the work and prosecute it to completion by agreement with another party or otherwise. Upon termination of the contract or in the event Contractor shall cease conducting business, the Owner shall have the right to solicit applications for employment from any employee of the Contractor assigned to the performance of the contract. Neither party shall be considered in default of the performance of such obligations is prevented or delayed by any cause, existing or future, which is beyond the reasonable control of such party. Delays arising from the actions or inactions of one or more of Contractor's principals, officers, employees, agents, sub-contractors, sub consultants, vendors, or suppliers are expressly recognized to be within Contractor's control.

ARTICLE 15- DISPUTE RESOLUTION

The parties shall attempt to resolve any dispute related to this contract as follows. Either party shall provide to the other party, in writing and with full documentation to verify and substantiate its decision, its stated position concerning the dispute. No dispute shall be considered submitted and no dispute shall be valid under this provision unless and until the submitting party has delivered the written statement of its position and full documentation to the other party. The parties shall then attempt to resolve the dispute through good faith efforts and negotiation between the Owner Representative and the Contractor Representative. At all times, Contractor shall carry on the work under this contract and maintain and complete work in accordance with the requirements of the contract or determination or direction of the Owner. If the parties are unable to resolve their dispute as described above within 30 days, the parties may request that the dispute be submitted to the Board of Public Works for resolution. If the parties are dissatisfied with the decision of the Board of Public Works, the parties' reserve the right to pursue any available legal and/or equitable remedies for any breaches of this contract except as that right may be limited by the terms of this contract.

ARTICLE 16- CHOICE OF LAW AND VENUE

This contract shall be governed exclusively by the laws of the State of New Hampshire and any claim or action brought relating to this contract, the work performed or contracted to be performed thereunder, or referable in anyway thereto shall be brought in Hillsborough County (New Hampshire) Superior Court Southern Judicial District or in the New Hampshire 9th Circuit Court—Nashua and not elsewhere

ARTICLE 17- MISCELLANEOUS PROVISIONS

1. Neither party to the Contract shall assign the Contract as a whole without written consent of the other.
2. Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time.
3. If additional testing is required, the Contractor shall perform these tests.
4. The Owner shall pay for tests except for testing Work found to be defective for which the Contractor shall pay.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be signed and intend to be legally bound thereby.

City of Nashua, NH (signature)

Contractor (signature)

James Donchess, Mayor
(Printed Name and Title)

(Printed Name and Title)

Date

Date



THE CITY OF NASHUA

Financial Services

Purchasing Department

"The Gate City"

May 12, 2016
Memo #16-140

TO: MAYOR DONCHESS
FINANCE COMMITTEE

SUBJECT: TO APPROVE CONTRACTS FOR ADMIN SERVICES TO ANTHEM BLUECROSS AND
BLUE SHIELD, HARVARD PILGRIM HEALTHCARE AND THE HARTFORD (VALUE:
NOT TO EXCEED \$1,395,000)
DEPARTMENT: HUMAN RESOURCES; FUND: BENEFITS SELF INSURANCE FUND

Please see attached communication from Larry Budreau, Human Resources Director dated May 10, 2016 for the information related to these contract awards.

The Human Resources Director the CEO and the Purchasing Department recommend awarding these contracts to Anthem BlueCross Blue Shield in an amount not to exceed \$1,140,000, Harvard Pilgrim HealthCare in an amount not to exceed \$255,000 and The Hartford in an amount not to exceed \$0.15 per \$1,000 of AD&D insurance per month.

Respectfully,

Dan Kookan
Purchasing Manager

Cc: L Budreau J Griffin



City of Nashua

Human Resources Department
229 Main Street - Nashua, NH 03060
603 589-3230

To: Dan Kookan, Purchasing Manager

From: Larry Budreau, Human Resources Director

Subject: Anthem BlueCross BlueShield Administrative Services Contract Renewal
Harvard Pilgrim HealthCare Administrative Services Contract Renewal
The Hartford - Life Insurance, Supplemental Life, and AD&D Contract Renewal

Date: May 10, 2016

The Human Resources Department seeks Finance Committee approval to renew the City's Health and Life insurance contracts, effective July 1, 2016.

Anthem BlueCross Blue Shield

Anthem is one of two health insurance carriers that administer the City's self-funded health plans. 1900 employees participate in one of the three plan options – Point of Service (POS), Health Maintenance Organization (HMO), or High Deductible Health Plan with Health Savings Account (HDHP w/ HSA).

The Anthem contract is for Administrative Services Only. Briefly, unlike a fully insured plan, Anthem provides access to their provider network, processes health insurance claims, and seeks 2x weekly claims cost reimbursement from the City. The City bears the claims cost risk (which it mitigates with Stop Loss Insurance), and pays Anthem a monthly fee for each covered employee.

That fee is increasing 2.4%, from \$48.25 per month to \$49.40 per month. Total annual fees are estimated to be \$1,140,000. The 2.4% increase is contingent upon the City agreeing to a 3-year contract, from July 2016 through June 2019, during which time Anthem guarantees that 2nd and 3rd year fee increases will not exceed 2.5% per year. The 1-year renewal rate increase is 4.8%.

For your information, total plan costs, (fees + claims + stop loss insurance), are estimated to be \$32,500,000. Administrative service fees represent 3.5% of the total plan cost.

Harvard Pilgrim HealthCare

300 employees participate in a self-funded HMO administered by Harvard Pilgrim. Harvard's Administrative Services Only fee is increasing 2.9%, from \$65.66 to \$67.56. Total annual fees are estimated to be \$255,000.

The Hartford

The Hartford provides Basic Life and AD&D, and Supplemental Life & AD&D (additional coverage at employee's expense). The basic life and AD&D rate is \$0.18 per \$1000 per month; supplemental insurance costs vary with age. The Hartford reduced its rates from an apparent high of \$0.25 per \$1000 per month to \$0.20 in 2005 and \$0.15 in 2009. Rates have remained constant since 2009. At the City's request, they have agreed to change our Plan Year from January to December, to July to June, in order to align with the City's fiscal year, and agreed to extend and guarantee current rates beyond the upcoming December 31, 2016 expiration date until June 30, 2019.

Contracts & Rate Sheets

Administrative Services Only contracts with Anthem and Harvard are attached. The practice, unless amended, is to rely upon the initial document, and update annually (or as needed) with the attached rate sheets.

Similarly, The Hartford's policy (attached) was last amended in early 2015. Presently, they seek only for the City to acknowledge the rate guarantee presented on the attached letter addressed to me on March 10, 2016.

ADMINISTRATIVE SERVICES AGREEMENT

This Administrative Services Agreement ("Agreement") is entered into by and between City of Nashua ("Employer") and Anthem Health Plans of New Hampshire, Inc. dba Anthem Blue Cross and Blue Shield ("Anthem") and is effective as of July 1, 2013 upon the following terms and conditions:

1. Employer is the sponsor of a self-funded Group Health Plan (as defined below) providing, among other things, health care benefits to certain eligible employees and their qualified dependents.
2. Employer desires to retain Anthem as an independent contractor to administer certain elements of Employer's Group Health Plan.
3. Anthem desires to administer certain elements of Employer's Group Health Plan pursuant to the terms of this Agreement.

In consideration of the promises and the mutual covenants contained in this Agreement, Anthem and Employer (the "Party" or "Parties" as appropriate) agree as follows:

ARTICLE 1 - DEFINITIONS

For purposes of this Agreement and any amendments, attachments or schedules to this Agreement, the following words and terms have the following meanings unless the context or use clearly indicates another meaning or intent:

ADMINISTRATIVE SERVICES FEE. The amount payable to Anthem in consideration of its administrative services and operating expenses as indicated in Section 3 of Schedule A, excluding any cost for stop loss insurance coverage or any other policy of insurance, if applicable. All additional charges not included in the Administrative Services Fee are specified elsewhere in this Agreement.

AGREEMENT PERIOD. The period of time indicated in Section 1 of Schedule A.

ANTHEM AFFILIATE. An entity controlling, under common control with or controlled by Anthem.

BENEFITS BOOKLET. A description of the portion of the health care benefits provided under the Plan that is administered by Anthem.

BILLED CHARGES. The amount that appears on a Member's Claim form (or other written notification acceptable to Anthem that Covered Services have been provided) as the Provider's charge for the services rendered to a Member, without any adjustment or reduction and irrespective of any applicable reimbursement arrangement with the Provider.

BLUE CROSS BLUE SHIELD ASSOCIATION ("BCBSA"). An association of independent Blue Cross and Blue Shield companies.

CLAIM. Written or electronic notice of a request for reimbursement of any health care service or supply on a form acceptable to Anthem.

CLAIMS RUNOUT SERVICES. Processing and payment of Claims that are incurred but unreported and/or unpaid as of the date this Agreement terminates.

COVERED SERVICE. Any health care service or supply rendered to Members for which benefits are eligible for reimbursement pursuant to the terms of the applicable Benefits Booklet.

EMPLOYER AFFILIATES. Companies affiliated with Employer that are participating in the Plan and which, along with the Employer constitute a single "control group" as that term is used in Internal Revenue Code.

ERISA. The Employee Retirement Income Security Act of 1974, as amended, and regulations promulgated thereunder.

GROUP HEALTH PLAN OR PLAN. An employee welfare benefit plan (as defined in Section 3(1) of ERISA) established by the Employer, in effect as of the Effective Date, as described in the Plan Documents, as they may be amended from time to time.

INTER-PLAN PROGRAMS. Blue Cross and Blue Shield Association programs, including the BlueCard Program, where Anthem can process certain Claims for Covered Services received by Members, which may include accessing the reimbursement arrangement of a Provider that has contracted with another Blue Cross and/or Blue Shield plan.

INVOICE DUE DATE. The date on the invoice provided to Employer indicating when payment is due.

MEMBER. The individuals, including the Subscriber and his/her dependents, as defined in the Benefits Booklet, who have satisfied the Plan eligibility requirements of Employer, applied for coverage, and been enrolled for Plan benefits.

NETWORK PROVIDER. A physician, health professional, hospital, pharmacy, or other individual, organization and/or facility that has entered into a contract, either directly or indirectly, with Anthem to provide Covered Services to Members through negotiated reimbursement arrangements.

PAID CLAIM. The amount charged to Employer for Covered Services or services provided during the term of this Agreement. Paid Claims may also include any applicable interest and any surcharges assessed by a state or government agency. In addition, Paid Claims shall be determined as follows:

1. Provider and Vendor Claims. Except as otherwise provided in this Agreement, Paid Claims shall mean the amount Anthem actually pays the Provider or Vendor (without regard to whether Anthem reimburses such Provider or Vendor on a percentage of charges basis, a fixed payment basis, a global fee basis, single case rate, or other reimbursement methodology) or whether such amount is more or less than the Provider's or Vendor's actual Billed Charges for a particular service or supply.
2. Prescription Drug Claims. If applicable to the Plan benefits as indicated in Schedule B, Paid Claims for Prescription Drugs shall mean an amount that Anthem invoices Employer for Prescription Drugs dispensed to Members by pharmacies. Anthem shall retain the difference, if any, between the amount invoiced to Employer and the amount paid to the pharmacy benefit manager ("PBM") for Prescription Drugs dispensed to Members as a portion of Anthem's reasonable compensation for services under this Agreement.
3. Performance Payments. If a Provider or Vendor participates in any Anthem program in which performance incentives, rewards or bonuses ("Performance Payments") are paid based on the achievement of certain goals, outcomes or performance standards adopted by Anthem (collectively, "Performance Targets"), Paid Claims shall also include the amount of such Performance Payments. Such Performance Payments may be charged to Employer on a per Claim, lump sum, per Subscriber, per Member, or a pro-rata apportionment basis. The amount charged to Employer may be greater than the amount actually paid to any one particular Provider or Vendor pursuant to the terms of the contract with such Provider or Vendor. Anthem shall retain the difference, if any, between the amount invoiced to Employer and the amount paid to any Provider or Vendor as a fee Anthem charges to oversee such programs. In no event shall the amount charged to Employer be greater than its proportionate share of total Performance Payments.
4. Fees Paid to Manage Care or Costs. Paid Claims may also include fees paid to Providers or Vendors for managing the care or cost of care for designated Members. In addition, Paid Claims may also include an amount Anthem charges to oversee programs and such program charges, if any, shall be provided in Section 4 of Schedule A.
5. Claims Payment Pursuant to any Judgment, Settlement, Legal or Administrative Proceeding. Paid Claims shall include any Claim amount paid as the result of a settlement, judgment, or legal, regulatory or administrative proceeding brought against the Plan and/or Anthem, or otherwise agreed to by Anthem, with respect to the decisions made by Anthem regarding the coverage of or amounts paid for services under the terms of the Plan. Paid Claims also includes any amount paid as a result of Anthem's billing dispute resolution procedures with a Provider or Vendor. Any Claims paid pursuant to this provision will count towards any stop loss accumulators under a stop loss agreement with Anthem.
6. Claims Payment Pursuant to Inter-Plan Programs and Other BCBSA Programs. Paid Claims shall include any amount paid for Covered Services that are processed through Inter-Plan Programs or for any amounts paid for Covered Services provided through another BCBSA program (e.g. BCBSA Blue Distinction Centers for Transplant). More information about Inter-Plan Programs is found in Article 15 of this Agreement.
7. Claims Payment Pursuant to a Consumer Directed Health Plan Account. If applicable to Plan benefits and as indicated on Schedule B of this Agreement, Paid Claims shall include any amount actually paid by Anthem from a consumer directed health plan account, such as a health reimbursement account or a health incentive account.

PLAN DOCUMENTS. The documents that set forth the terms of the Plan, and which include the Summary Plan Description and the Benefits Booklet.

PRESCRIPTION DRUG. Insulin and those drugs and drug compounds that are included in the U.S. Pharmacopoeia and that are required to be dispensed pursuant to a prescription or that are otherwise included on Anthem's formulary (e.g., certain over-the-counter drugs).

PROPRIETARY INFORMATION AND CONFIDENTIAL INFORMATION. Employer's Proprietary Information is information about the systems, procedures, methodologies and practices used by Employer to run its operations and the Plan and other non-public information about Employer. Anthem's Proprietary Information is non-public, trade secret, commercially valuable, or competitively sensitive information, or other material and information relating to the products, business, or activities of Anthem or an Anthem Affiliate, including but not limited to: (1) Information about Anthem's Provider networks, Provider negotiated fees, Provider discounts, and Provider contract terms; (2) information about the systems, procedures, methodologies, and practices used by Anthem and Anthem Affiliates in performing their services such as underwriting, Claims processing, Claims payment, and health care management activities; and (3) combinations of data elements that could enable information of this kind to be derived or calculated. Anthem's Confidential Information is information that Anthem or an Anthem Affiliate is obligated by law or contract to protect, including but not limited to: (1) Social Security numbers; (2) Provider tax identification numbers (TINs); (3) National Provider Identification Numbers (NPIs); (4) Provider names, Provider addresses, and other identifying information about Providers; and (5) drug enforcement administration (DEA) numbers, pharmacy numbers, and other identifying information about pharmacies.

PROVIDER. A duly licensed physician, health professional, hospital, pharmacy or other individual, organization and/or facility that provides health services or supplies within the scope of an applicable license and/or certification and meets any other requirements set forth in the Benefits Booklet.

SUBSCRIBER. An employee or retiree of Employer or other eligible person (other than a dependent) who is enrolled in the Plan.

SUMMARY PLAN DESCRIPTION ("SPD"). A document provided to Subscribers by Employer or its designee that describes the health care benefits available to Members under the Plan, their rights under the Plan and the obligations of the Plan. This document may incorporate the Benefits Booklet. In the event of any conflict or inconsistency between the Summary Plan Description and the Benefits Booklet, the terms of the Benefits Booklet shall control Anthem's performance under this Agreement.

VENDOR. A person or entity other than a Provider, including an Anthem Affiliate, that provides services or supplies pursuant to a contract with Anthem.

ARTICLE 2 - ADMINISTRATIVE SERVICES PROVIDED BY ANTHEM

- a. Anthem shall process the enrollment of eligible individuals and termination of Members as directed by the Employer subject to the provisions of this Agreement. Anthem shall, with the assistance of Employer, respond to direct routine inquiries made to it by employees and other persons concerning eligibility in the Plan.
- b. Anthem shall perform the following Claims administrative services:
 1. Process Claims with a Claims Incurred Date indicated in Section 1 of Schedule A and provide customer service at a level consistent with industry standards, including investigating and reviewing such Claims to determine what amount, if any, is due and payable according to the terms and conditions of the Benefits Booklet and this Agreement. Anthem shall perform coordination of benefits ("COB") with other payors, including Medicare. In processing Claims, Anthem shall utilize Anthem's medical policies and medical policy exception process, its definition of medical necessity, its precertification and/or preauthorization policies and applicable Claim timely filing limits.
 2. Disburse to the applicable individuals or entities (including Providers and Vendors) payments that it determines to be due according to the provisions of the Benefits Booklet.

3. Provide notice in writing when a Claim for benefits has been denied which notice shall set forth the reasons for the denial and the right to a full and fair review of the denial under the terms of the Benefits Booklet and shall otherwise satisfy applicable regulatory requirements, including those of ERISA, governing the notice of a denied Claim.
- c. Pursuant to Section 405(c)(1) of ERISA, Employer delegates to Anthem fiduciary authority to determine claims for benefits under the Plan as well as the authority to act as the appropriate fiduciary under Section 503 of ERISA to determine appeals of any adverse benefit determinations under the Plan. Anthem shall administer complaints, appeals and requests for independent review according to Anthem's complaint and appeals policy, and any applicable law or regulation, unless otherwise provided in the Benefits Booklet. In carrying out this authority, Anthem is delegated full discretion to determine eligibility for benefits under the Plan and to interpret the terms of the Plan. Anthem shall be deemed to have properly exercised such authority unless a Member proves that Anthem has abused its discretion or that its decision is arbitrary and capricious. Anthem is a fiduciary of the Plan only to the extent necessary to perform its obligations and duties as expressed in this Agreement and only to the extent that its performance of such actions constitutes fiduciary action under ERISA. Anthem shall not act as the administrator of the Plan nor shall it have any fiduciary responsibility in connection with any other element of the administration of the Plan. Anthem shall charge Employer the fee described in Section 3.C of Schedule A for any independent review conducted pursuant to this provision.
 - d. Anthem shall have the authority, in its discretion, to institute from time to time, utilization management, case management, disease management or wellness pilot initiatives in certain designated geographic areas. These pilot initiatives are part of Anthem's ongoing effort to find innovative ways to make available high quality and more affordable healthcare and will apply equally to Members of both insured and self-funded plans. A pilot initiative may affect some, but not all Members under the Plan. These programs will not result in the payment of benefits which are not provided in the applicable Benefits Booklet, unless otherwise agreed to by the Employer. Anthem reserves the right to discontinue a pilot initiative at any time without advance notice to Employer.
 - e. Anthem shall perform recovery services as provided in Article 13.
 - f. Anthem shall issue identification cards to Subscribers and/or Members, as applicable, and the content and design of the identification cards shall comply with BCBSA regulations.
 - g. Anthem shall provide certificates of creditable coverage as required by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") with respect to Members' participation in the Plan. Employer agrees to promptly provide Anthem with any information relating to a Subscriber's employment history as may be necessary for Anthem to provide the certificates of creditable coverage.
 - h. Anthem shall provide Members and potential Members access to an online directory of Providers contracted with Anthem ("Provider Directories"). Such Provider Directories shall also be available and distributed in booklet format upon Member request. Additionally, if applicable to Plan benefits, Anthem shall ensure that Members and potential Members have access to the BlueCard directory of Providers via a website sponsored by BCBSA.
 - i. Anthem reserves the right to make benefit payments to either Providers or Members at its discretion. Employer agrees that the terms of the Plan will include provisions for supporting such discretion in determining the direction of payment including, but not limited to, a provision prohibiting Members from assigning their rights to receive benefit payments, unless otherwise prohibited by applicable law.
 - j. If applicable to the Plan benefits and as indicated in Schedule B of this Agreement, Anthem may provide or arrange for the provision of the following managed care services:
 1. Conduct medical necessity review, utilization review, and a referral process, which may include, but is not limited to: (a) preadmission review to evaluate and determine the medical necessity of an admission or procedure and the appropriate level of care, and for an inpatient admission, to authorize an initial length of stay; (b) concurrent review throughout the course of the inpatient admission for authorization of additional days of care as warranted by the patient's medical condition; (c) retrospective review; and (d) authorizing a referral to a non-Network Provider. Anthem shall have the authority to waive a requirement if, in Anthem's discretion, such exception is in the best interest of the Member or the Plan, or is in furtherance of the provision of cost effective services under this Agreement.

2. Perform case management to identify short and long term treatment programs in cases of severe or chronic illness or injury. Anthem may, but is not required to, customize benefits in limited circumstances by approving otherwise non-Covered Services if, in the discretion of Anthem, such exception is in the best interest of the Member and the Plan.
 3. Provide access to a specialty network of Providers if the Plan includes a specialty network. Anthem reserves the right to establish specialty networks for certain specialty or referral care.
 4. Provide any other managed care services incident to or necessary for the performance of the services set forth in this Article 2.
- k. If applicable to the Plan benefits and as indicated in Schedule B of this Agreement, Anthem shall offer wellness programs and other programs to help Employer effectively manage the cost of care, and Employer shall pay fees for the programs selected by Employer only if such fees are indicated in Section 3(B) of Schedule A. Employer shall abide by all applicable policies and procedures of the programs selected, which may require Employer to provide requested information prior to Anthem initiating the service.
 - l. On behalf of Employer, Anthem shall produce and maintain a master copy of the Benefits Booklet and make changes and amendments to the master copy of the Benefits Booklet and incorporate any approved changes or amendments pursuant to Article 18(a) of this Agreement. Employer shall determine, in its sole discretion, whether Anthem has accurately produced the Benefits Booklet and has fully implemented the approved changes or amendments. Until Employer has approved the Benefits Booklet, Anthem will administer the quoted benefits according to Anthem's most similar standard Benefits Booklet language.
 - m. Anthem will provide Employer with Plan data and assistance necessary for preparation of the Plan's information returns and forms required by ERISA or other federal or state laws. Anthem shall prepare and mail all IRS Form 1099's and any other similar form that is given to Providers or brokers. Form 5500s are the sole responsibility of Employer; however, Anthem shall provide timely information and, if requested, assistance. Anthem will disclose its fee and compensation information to Employer, as required by applicable law, for Employer to complete its Form 5500 and assess its compliance with section 408(b)(2) of ERISA and any applicable regulations promulgated there under. Employer is solely responsible for the preparing the summary annual reports.
 - n. Anthem shall administer unclaimed funds pursuant to unclaimed property or escheat laws and shall make any required payment and file any required reports under such laws.
 - o. Unless otherwise agreed to by the Parties and specified in the Benefits Booklet, Anthem's standard policies and procedures, as they may be amended from time-to-time, will be used in the provision of services specified in this Agreement. In the event of any conflict between this Agreement and any of Anthem's policies and procedures, this Agreement will govern.
 - p. If applicable to the Plan benefits as indicated in Schedule B, Anthem shall provide conversion rights to Members following termination of this Agreement, and Employer shall pay the fee indicated in Section 3(C) of Schedule A.
 - q. Select state laws require Employers to finance health related initiatives through residency-based assessments and/or surcharges added to certain Paid Claims. After Employer completes the applicable forms, Anthem shall make all assessment and/or surcharge payments on behalf of Employer to the appropriate pools administered by the respective states, based primarily upon Anthem's Paid Claims information and Member information provided to Anthem by Employer. Examples of such assessments and surcharges include, but are not limited to, the Massachusetts Health Safety Net Trust Fund, the New York Health Care Reform Act and the Michigan Health Insurance Claims Assessment Act.
 - r. Anthem shall provide required notices describing Member's rights under the Women's Health and Cancer Rights Act (WHCRA) upon a Member's enrollment and at least annually thereafter.
 - s. Anthem shall have the authority to build and maintain its Provider network. Nothing in this Agreement shall be interpreted to require Anthem to maintain negotiated fees or reimbursement arrangements or other relationships with certain Providers or Vendors. Anthem will be solely responsible for acting as a liaison with Providers including, but not limited to, responding to Provider inquiries, negotiating rates with Providers or auditing Providers.

- t. If a catastrophic event (whether weather-related, caused by a natural disaster, or caused by war, terrorism, or similar event) occurs that affects Members in one or more locations, and such catastrophic event prevents or interferes with Anthem's ability to conduct its normal business with respect to such Members or prevents or interferes with Members' ability to access their benefits, Anthem shall have the right, without first seeking consent from Employer, to take reasonable and necessary steps to process Claims and provide managed care services in a manner that may be inconsistent with the Benefits Booklet in order to minimize the effect such catastrophic event has on Members. As soon as practicable after a catastrophic event, Anthem shall report its actions to Employer. Employer shall reimburse Anthem for amounts paid in good faith under the circumstances and such amounts shall constitute Paid Claims, even if the charges incurred were not for services otherwise covered under the Benefits Booklet.
- u. Anthem shall submit any claim that is required to be filed under any stop loss policy issued by Anthem or an Anthem Affiliate. Anthem shall have no obligation to prepare or file any claim for excess risk or stop loss coverage under a policy not issued by Anthem or an Anthem Affiliate. Anthem shall provide Employer with Claims data pursuant to Article 11 of this Agreement if Employer chooses to file a claim under a stop loss policy issued by an entity other than Anthem or an Anthem Affiliate. Anthem shall assume no liability or responsibility to Employer for inconsistencies between the determination of Covered Services under the Benefits Booklet and this Agreement and the determination of coverage by an unaffiliated stop loss carrier.
- v. If applicable to Plan benefits as indicated on Schedule B to this Agreement, Anthem shall assist Employer in determining whether its Prescription Drug benefit constitutes "creditable prescription drug coverage" as that term is used under the Medicare Part D laws (specifically, 42 C.F.R. 423.56). Unless otherwise agreed to by the Parties, Employer shall be solely responsible for communicating with Members regarding creditable prescription drug coverage matters.
- w. If a Member is a Massachusetts resident, Anthem shall mail the Member any notices required by the Massachusetts Health Care Reform Act ("HCRA") reflecting coverage during the current and prior Agreement Period. If a Member works in Massachusetts for Employer, but resides in another State, Anthem will only provide such notices if Employer notifies Anthem at least 60 days prior to any notice deadline imposed by HCRA that such Member requires the HCRA notices.
- x. Anthem is the responsible reporting entity ("RRE") for the Plan as that term is defined pursuant to Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007. In order to fulfill its RRE obligation, Anthem requires information from the Employer, including, but not limited to, Member Social Security Numbers. Employer shall cooperate with Anthem and timely respond to any request for information made by Anthem.
- y. Anthem will provide Employer with Plan information and assistance necessary for the preparation of the Plan's Summary of Benefits and Coverage ("SBC") related to the elements of the Plan that Anthem administers. Employer is solely responsible for ensuring that the SBC accurately reflects the benefits Employer will offer and for finalizing and distributing the SBC to Subscribers. Notwithstanding the provisions in Article 18(a), if Employer's open enrollment period is at a time other than 30 days prior to the end of an Agreement Period, Employer agrees to provide Anthem with any changes to the benefits Anthem administers at least 60 days prior to the start of the open enrollment period.

ARTICLE 3 - OBLIGATIONS OF EMPLOYER

- a. Employer shall furnish to Anthem initial eligibility information regarding Members. Employer is responsible for determining eligibility of individuals and advising Anthem in a timely manner, through a method agreed upon by the Parties, as to which employees, dependents, and other individuals are to be enrolled Members. Anthem reserves the right to limit the effective date of retroactive enrollment to a date not earlier than 60 days prior to the date notice is received. Such retroactive enrollments shall be subject to Anthem's receipt of any applicable Administrative Services Fees as indicated in Section 3(A) of Schedule A. Employer shall keep such records and furnish to Anthem such notification and other information as may be required by Anthem for the purpose of enrolling Members, processing terminations, effecting COBRA coverage elections, effecting changes in single or family coverage status, effecting changes due to a Member becoming eligible or ineligible for Medicare, effecting changes due to a leave of absence, or for any other purpose reasonably related to the administration of eligibility under this Agreement. Employer acknowledges that prompt and complete furnishing of the required eligibility information is essential to the timely, accurate, and efficient processing of Claims.

Employer shall notify Anthem monthly of the Subscribers, dependents, or other individuals that will be or have become ineligible for benefits under the Plan. Upon receipt of such notice, Anthem shall terminate coverage effective as of the date specified in the Benefits Booklet. Employer shall give Anthem advance notice, if possible, of any Member's expected termination and/or retirement. Anthem reserves the right to limit retroactive terminations to a maximum of 60 days prior to the date notice is received. Anthem shall credit Employer Administrative Services Fees for such retroactive terminations as indicated in Section 3(A) of Schedule A.

If Anthem has paid Claims for persons no longer eligible for reasons including, but not limited to, Anthem having been provided inaccurate eligibility information, or Anthem having received notice of a retroactive change to enrollment, then Employer shall reimburse Anthem for all unrecovered Paid Claim amounts to the extent that the amounts have not already been paid by Employer.

- b. Employer acknowledges that it or its designee(s) serves as the "plan sponsor, "plan administrator" and "named fiduciary" as those terms are defined in ERISA. Employer has the discretionary authority and control over the management of the Plan, and all discretionary authority and responsibility for the administration of the Plan except as delegated to Anthem in Article 2(c) of this Agreement. Anthem does not serve as "plan sponsor", "plan administrator" or as the Plan's "named fiduciary". Employer retains all final authority and responsibility for the Plan and its operation and Anthem is empowered to act on behalf of Employer in connection with the Plan only as expressly stated in this Agreement or as otherwise agreed to by the Parties in writing.
- c. It is understood and agreed that the provision of any notice, election form, or communication and the collection of any applicable premium or fees required by or associated with Title X of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA"), or any other applicable law governing continuation of health care coverage, shall be the sole responsibility of Employer and not Anthem, except as otherwise agreed to in a written agreement between the Parties.
- d. Employer is solely responsible for compliance with the Family and Medical Leave Act ("FMLA") and, to the extent applicable to Employers' wellness program(s), for compliance with the Americans with Disabilities Act, the Internal Revenue Code, federal and state nondiscrimination laws, and other federal and state laws and regulations governing wellness programs.
- e. Employer agrees to and shall collect those contributions from Subscribers that are required by Employer for participation in the Plan. If Employer elects Anthem's stop loss coverage, Employer shall abide by Anthem's participation and contribution guidelines.
- f. Unless otherwise agreed to by the Parties in writing, Employer shall prepare and distribute SPDs, summary annual reports, and all notices or summaries of changes or material modifications to the Plan. Employer shall ensure that when it or its designee prepares the SPD, such SPD will accurately reflect the terms of the Benefits Booklet.
- g. To the extent that Medicare, Medicaid, the Veterans Administration or any other federal or state agency or entity asserts a reimbursement right against Employer, the Plan, or Anthem pursuant to that agency's or entity's rights under applicable law with respect to Claims processed by Anthem under this Agreement, the Employer shall be responsible for reimbursing Anthem any such amounts determined to be owed.
- h. Employer shall give notice to Anthem of the expected occurrence of any of the following events (including a description of the event), with such notice to be given at least 30 days prior to the effective date of the event, unless such advance notice is prohibited by law or contract in which case, notice will be provided as soon as practicable:
 - 1. Change of Employer's name;
 - 2. Any merger between or consolidation with another entity where, after such merger or consolidation, Employer is not the controlling entity;
 - 3. The sale or other transfer of all or substantially all of the assets of either Employer or any Employer Affiliates or the sale or other transfer of the equity of Employer or any Employer Affiliates, or;

4. Any bankruptcy, receivership, insolvency or inability of Employer to pay its debts as they become due.
- i. The Employer shall have the sole responsibility, in accordance with state or federal law, to develop procedures for determining whether a medical child support order is a "qualified" medical child support order. The Employer shall provide notice to Anthem once it has made such determination.
- j. The Employer may request Anthem, on an exception basis, to process and pay Claims that were denied by Anthem or take other actions with respect to the Plan that are not specifically set forth in this Agreement or the Benefits Booklet. In such cases, any payments shall not count toward the stop loss accumulators under a stop loss agreement issued by Anthem, unless otherwise agreed to by Anthem. Anthem may charge Employer a processing fee that has been mutually agreed to by the Parties prior to the processing of the Claim. Anthem shall not be responsible for any liability associated with any act or omission undertaken at the direction of, or in accordance with, instructions received from the Employer under this provision.

ARTICLE 4 - CLAIMS PAYMENT METHOD

- a. Employer shall pay or fund Paid Claims according to the Claims payment method described in Section 4 of Schedule A. Employer shall pay or fund such amounts by the Invoice Due Date. In addition, from time to time, the Parties acknowledge that Employer may request a review of the appropriateness of a Claim payment and, during the review period, Employer shall pay or fund such Claim.
- b. The Parties acknowledge that, from time to time, a Claims adjustment may be necessary as a result of coordination of benefits, subrogation, workers' compensation, other third party recoveries, payment errors and the like, and that the adjustment will take the form of a debit (for an additional amount paid by Anthem) or a credit (for an amount refunded to Employer). The Parties agree that such Claims adjustment shall be treated as an adjustment to the Claims payment made in the billing period in which the adjustment occurs, rather than as a retroactive adjustment to the Claim in the billing period in which it was initially reported as paid. Any Claims credit may be reduced by a fee charged by Vendors as indicated in Article 13 of this Agreement. In addition, a credit shall not be provided to Employer for a recovery related to a Claim that was covered under stop loss coverage provided by Anthem.

ARTICLE 5 - ADMINISTRATIVE SERVICES FEE

During the term of this Agreement, Employer shall pay Anthem the Administrative Services Fee, described in Section 3 of Schedule A. Employer shall pay the Administrative Services Fee and other fees authorized under this Agreement by the applicable Invoice Due Date according to the payment method described in Section 5 of Schedule A.

ARTICLE 6 - RENEWAL SCHEDULES

If Anthem offers to renew this Agreement at the end of an Agreement Period, then Anthem shall provide Employer with the terms and conditions of the proposed renewal in writing within the time period provided in Section 1 of Schedule A. Employer shall notify Anthem in writing of its selection from the renewal options by indicating its selection and signing Anthem's designated renewal form. If Anthem does not receive a signed acceptance of the renewal from Employer prior to the start of the next Agreement Period, Employer's payment of the amounts set forth in the renewal shall constitute Employer's acceptance of the terms. Anthem shall provide a revised Schedule A that will become part of this Agreement without the necessity of securing Employer's signature.

ARTICLE 7 - CLAIMS RUNOUT SERVICES

- a. Claims Runout Services shall be provided for the period of time provided in Section 6 of Schedule A (the "Claims Runout Period"), except such Claims Runout services shall not be provided in the event that termination is due to non-payment pursuant to Article 19(a) of this Agreement. During the Claims Runout Period, the terms of this Agreement shall continue to apply. Anthem shall have no obligation to process or pay any Claims or forward Claims to Employer beyond the Claims Runout Period. Any amounts recovered beyond the Claims Runout Period shall be retained by Anthem as reasonable compensation for services under this Agreement. Anthem shall, however, return any recoveries for which Anthem had received monies, but had not processed the recovery prior to the end of the Claims Runout Period. In addition, Employer shall have no obligation to reimburse Anthem for any amounts paid by Anthem due to adjustments to Claims after the end of the Claims Runout Period.
- b. The Administrative Services Fee for the Claims Runout Period, if applicable, is provided in Section 6 of Schedule A. Paid Claims and the Administrative Services Fee shall be invoiced and paid in the same manner as provided in Sections 4 and 5 of Schedule A, unless otherwise provided or agreed to in writing by the Parties.

ARTICLE 8 - LATE PAYMENT PENALTY

If Employer fails to timely pay or fund any amount due to Anthem under this Agreement, Employer agrees to pay a late payment penalty for each day the payment is late. The late payment penalty shall be calculated at the rate of 12% simple interest per annum (365 days), and shall be included on a subsequent invoice and payable by the Invoice Due Date. If applicable, Employer agrees to reimburse Anthem for any expenses charged to Anthem by a financial institution, Provider or Vendor due to Employer's failure to maintain sufficient funds in a designated bank account. Any acceptance by Anthem of late payments shall not be deemed a waiver of its rights to terminate this Agreement for any future failure of Employer to make timely payments.

ARTICLE 9 - HIPAA

- a. Anthem's duties and responsibilities in connection with the requirements imposed by the Health Insurance Portability and Accountability Act ("HIPAA") and the privacy and security regulations promulgated thereunder will be set forth in a separate business associate agreement between the Parties.
- b. In the event the Plan submits Claims or eligibility inquiries or any other HIPAA covered transaction as defined in 45 CFR Part 160 and 162 to Anthem through electronic means, the Plan and Anthem shall comply with all applicable requirements of HIPAA and the Plan and Anthem shall require any of their respective agents or subcontractors to comply with all applicable requirements of HIPAA.

ARTICLE 10 - PROPRIETARY AND CONFIDENTIAL INFORMATION

- a. Each Party retains ownership of its Proprietary Information and Confidential Information (collectively "Information") and neither conveys ownership rights in its Information nor acquires ownership rights in the other Party's Information by entering into this Agreement or performing its obligations hereunder. Nothing in this Agreement shall impair or limit a Party's right to use and disclose its Information for its own lawful business purposes.
- b. Each Party shall maintain the other Party's Information in strict confidence, and shall institute commercially reasonable safeguards to protect it.
- c. Employer shall use and disclose Anthem's Information solely for the purpose of administering the Plan. Employer shall not, without Anthem's advance written consent, (1) use or disclose Anthem's Information, or reports or summaries thereof, for any purpose, other than administering the Plan; (2) combine Anthem's Information with other data to create or add to an aggregate database that will or could be made available to any third party; (3) combine Anthem's Information provided for a particular purpose with any other data received from Anthem's Information provided for another purpose; or, (4) sell or disclose Anthem's Information to any other person or entity except as expressly permitted by this Article 10.

- d. Employer may disclose the minimum amount of Anthem's Information necessary to Employer's stop loss carriers, consultants, auditors and Plan Contractors, provided that: (1) each such third party needs to know such Information in order to provide services to Employer; (2) the restrictions contained in Article 10(c) shall apply to each such third party as well as to Employer; and (3) prior to such disclosure, each such third party shall enter into a confidentiality agreement (or an appropriate amendment to an existing one, as applicable) with Anthem with respect to the planned disclosure.
- e. Upon termination of this Agreement, each Party shall return or destroy the other Party's Information or retain the Information in accordance with its reasonable record retention policies and procedures; provided; however that each Party shall continue to comply with the provisions of this Article 10 for as long as it retains the other Party's Information.
- f. This Agreement shall not be construed to restrict the use or disclosure of information that: (1) is public knowledge other than as a result of a breach of this Agreement; (2) is independently developed by a Party not in violation of this Agreement; (3) is made available to a Party by any person other than the other Party, provided the source of such information is not subject to any confidentiality obligations with respect to it; or, (4) is required to be disclosed pursuant to law, order, regulation or judicial or administrative process, but only to the extent of such required disclosures and after reasonable notice to the other Party.

ARTICLE 11 - DATA REPORTS

- a. Upon Employer's request and only as permitted by the business associate agreement entered into between the Parties, Anthem will provide Anthem's standard account reporting package. Prior to Anthem providing data or reports to Employer, the Parties must mutually agree to the types, format, content and purpose of the reports requested. If Employer requests from Anthem information that is not part of Anthem's standard account reporting package, and such request is approved by Anthem, Employer agrees to pay a mutually agreed upon charge to Anthem for such additional reports.
- b. If Employer requests Anthem to provide a data extract or report to any third party engaged by Employer (a "Plan Contractor") for use on Employer's behalf and Anthem agrees to do so: (i) to the extent such extract or report includes protected health information ("PHI") as defined in HIPAA, Anthem's disclosure of the PHI and Plan Contractor's subsequent obligations with respect to the protection, use, and disclosure of the PHI will be governed by Employer's applicable business associate agreements with Anthem and the Plan Contractor; and (ii) to the extent such data or report includes Anthem's Proprietary Information and/or Anthem's Confidential Information, Employer acknowledges and agrees that Plan Contractor shall be subject to the restrictions set forth in Article 10 of this Agreement and shall enter into a confidentiality agreement with Anthem (or amend an existing one, as applicable) prior to Anthem's release of the extract or report.
- c. Employer agrees not to contact, or to engage or permit a Plan Contractor to contact on Employer's behalf, any Provider concerning the information in any reports or data extracts provided by Anthem unless the contact is coordinated by Anthem.
- d. In addition to their unlimited rights to use Anthem's Proprietary Information and Confidential Information, Anthem and Anthem Affiliates shall also have the right to use and disclose other Claim-related data collected in the performance of services under this Agreement or any other agreement between the Parties, so long as: (1) the data is de-identified in a manner consistent with the requirements of HIPAA; or (2) the data is used or disclosed for research, health oversight activities, or other purposes permitted by law; or (3) a Member has consented to the release of his or her individually identifiable data. The data used or disclosed shall be used for a variety of lawful purposes including, but not limited to, research, monitoring, benchmarking and analysis of industry and health care trends. Anthem may receive remuneration for the data only if permitted by HIPAA.

ARTICLE 12 - CLAIMS AUDIT

- a. At Employer's expense, Employer shall have the right to audit Claims on Anthem's premises, during regular business hours and in accordance with Anthem's audit policy, which may be revised from time to time. A copy of the audit policy shall be made available to Employer upon request.

- b. If Employer elects to utilize a third-party auditor to conduct an audit pursuant to this Agreement and Anthem's audit policy, such auditor must be mutually acceptable to Employer and Anthem. Anthem will only approve auditors that are independent and objective and will not approve auditors paid on a contingency fee or other similar basis. Anthem reserves the right to charge a fee to Employer for expenditure of time by Anthem's employees in completing any audit. An auditor or consultant must execute a confidentiality and indemnification agreement with Anthem pertaining to Anthem's Proprietary and Confidential Information prior to conducting an audit.
- c. Employer may conduct an audit once each calendar year and the audit may only relate to Claims processed during the current year or immediately preceding calendar year (the "Audit Period") and neither Employer nor anyone acting on Employer's or the Plan's behalf, shall have a right to audit Claims processed prior to the Audit Period. The scope of the audit shall be agreed to in writing by the Parties prior to the commencement of the audit.
- d. Employer shall provide to Anthem copies of all drafts, interim and/or final audit reports at such time as they are made available by the auditor or consultants to Employer. Any errors identified and/or amounts identified as owed to Employer as the result of the audit shall be subject to Anthem's review and approval prior to initiating any recoveries of Paid Claims pursuant to Article 13 of this Agreement. Anthem reserves the right to terminate any audit being performed by or for Employer if Anthem determines that the confidentiality of its information is not properly being maintained or if Anthem determines that the Employer or auditor is not following Anthem audit policy.
- e. An audit performed pursuant to this Agreement shall be the final audit for the Audit Period and for any prior Audit Period unless otherwise agreed to in writing by the Parties; however, Claims may be re-audited if Employer is required to conduct the audit by a government agency with which it has a contractual arrangement.

ARTICLE 13 - RECOVERY SERVICES

- a. Pursuant to the provisions of this Article 13, Anthem shall pursue recoveries related to Paid Claims processed under this Agreement, including during any Claims Runout Period. Anthem shall exercise discretion to determine which recoveries it will pursue and, in no event will Anthem pursue a recovery if the cost of the collection is likely to exceed the recovery amount or if the recovery is prohibited by law or an agreement with a Provider or Vendor. Anthem will not be liable for any amounts it does not successfully recover. If Anthem determines that there is a potential recovery opportunity, Employer grants Anthem the authority and discretion to do the following: (1) determine and take steps reasonably necessary and cost-effective to effect recovery; (2) select and retain outside counsel or other Vendors as appropriate; (3) reduce any recovery obtained on behalf of the Plan by its proportionate share of the outside counsel fees and costs incurred during litigation or settlement activities to obtain such recovery; and (4) negotiate and effect any settlement of the Employer's and Plan's rights by, among other things, executing a release waiving the Employer's and Plan's rights to take any action inconsistent with the settlement.
- b. During the term of this Agreement and any applicable Claims Runout period, Anthem may pursue payments to Members by any other person, insurance company or other entity on account of any action, claim, request, demand, settlement, judgment, liability or expense that is related to a Claim for Covered Services ("Subrogation Services"). Anthem may charge Employer a fixed percentage fee up to 25% of gross subrogation recovery, or, if outside counsel is retained, 15% of net recovery after a deduction for outside counsel fees for Subrogation Services ("Subrogation Fee"). Any subrogation recoveries shall be net of the Subrogation Fee and shall be treated as an adjustment to the Claims payment in the billing period in which the adjustment occurs as described in Article 4 of this Agreement. Subrogation Fees will not be assessed on subrogation recoveries until they are received by Anthem and credited to Employer.

- c. Notwithstanding any other provision of this Article 13, Anthem will periodically perform audits of Provider and Vendor contracts and other Claims audits to determine if Claims were accurately paid. Anthem shall have authority to enter into a settlement or compromise regarding these audits, including, but not limited to, the right to reduce future reimbursement to Provider or Vendor in lieu of a lump sum settlement. If Anthem conducts an audit and makes a recovery as a result of such audit of Claims accuracy, then Anthem shall provide Employer a credit, after a reduction of third party vendor fees or costs, if any. Anthem shall credit Employer a proportionate share of the net recovery equal to the ratio of (1) total Members' Paid Claims to such Provider or Vendor for the audit period, to (2) total payments made to such Provider or Vendor for all of Anthem's business during the audit period. Notwithstanding the above, Anthem shall retain any recoveries made from a Provider or Vendor resulting from any audits if the cost to administer the refund is likely to exceed the total recovery from the Provider or Vendor.
- d. Anthem shall credit Employer net recovery amounts after deduction of fees and costs as set forth in this Article 13 not later than 150 days following the receipt of such recovery amounts. If Anthem does not credit Employer within 150 days of its receipt of recovery amounts, Anthem shall pay Employer interest calculated at the Federal Reserve Funds Rate in effect at the time of the payment. Anthem may have contracts with Network Providers or Vendors or there may be judgments, orders, settlements, applicable laws or regulations that limit Anthem's right to make recoveries under certain circumstances. Employer agrees that Anthem shall not be responsible for any such amounts that it is unable to recover from such Providers or Vendors. Notwithstanding the provisions of this Article 13, Anthem may, but is not required to, readjudicate Claims or adjust Members' cost share payments related to the recoveries made from a Provider or a Vendor. In no event, however, will Anthem be liable to credit Employer for any recovery after the termination date of this Agreement and any Claims Runout Period, and the Employer acknowledges and agrees that such sums shall be retained by Anthem as reasonable compensation for recovery services provided by Anthem.

ARTICLE 14 - PHARMACY BENEFITS AND SERVICES

- a. If applicable to Plan benefits and as indicated in Schedule B of this Agreement, Anthem, through PBM, shall provide the following Prescription Drug management services:
 - 1. Anthem shall offer Employer access to a network of pharmacies that have entered into contractual arrangements with PBM under which such pharmacies agree to provide pharmacy services to Members and accept negotiated fees for such services ("Network Pharmacies"). Anthem shall determine, in its sole discretion, which pharmacies shall be Network Pharmacies, and the composition of Network Pharmacies may change from time to time.
 - 2. Anthem will furnish and maintain a drug formulary for use with the Plan, and Anthem shall periodically review and update its formulary. The Employer shall adopt such formulary as part of the design of the Plan. Unless mutually agreed to in writing by the Parties, upon termination of the Agreement, the Employer shall cease adoption and use of Anthem's formulary as part of its Plan. The drug formulary will be made available to Members on Anthem's web site and upon request may be provided to Employer in a mutually acceptable format for Employer's distribution to Members.
 - 3. Anthem shall offer Employer a mail order pharmacy program, through which Members may receive mail order prescription services. Additional fees for express mail, shipping or handling may be charged to Members. Anthem shall also offer Employer a specialty pharmacy program, through which Members may receive specialty pharmacy prescription services. Anthem shall provide all necessary information and forms to Members to obtain these services.
 - 4. Anthem shall arrange for the processing of Prescription Drug Claims in accordance with the Benefits Booklet.

- b. PBM has negotiated programs with pharmaceutical manufacturers under which rebates for certain Prescription Drugs dispensed to Members are made directly to PBM ("Drug Rebate Programs"). Such Drug Rebate Programs are not based on the drug utilization of any one Employer Plan, but rather are based on the drug utilization of all individuals enrolled in PBM managed programs. In many cases the rebates are conditioned on certain Prescription Drugs being included on the formulary that Anthem requires Employer to adopt as part of the Plan. PBM will pay Anthem a portion of the rebates it receives (such portion being referred to in this Agreement as "Drug Rebates"). Anthem shall pay Employer an amount attributable to its actual or estimated receipt of the Drug Rebates as described in Section 3(A) of Schedule A.
- c. Anthem may receive and retain administrative fees from PBM or directly from pharmaceutical manufacturers. In addition, Anthem may receive and retain service fees from pharmaceutical manufacturers for providing services (e.g., Provider and Member education programs that promote clinically appropriate and safe dispensing and use of Prescription Drugs). For purposes of this Agreement, administrative fees and service fees received by Anthem or PBM shall not be considered Drug Rebates.
- d. If Employer terminates the pharmacy benefits portion of its Plan with Anthem at any time, then Anthem shall have the right to amend the Administrative Services Fee indicated in Section 3(A) of Schedule A.

ARTICLE 15 - INTER-PLAN ARRANGEMENTS (THE LANGUAGE IN THIS ARTICLE IS REQUIRED BY BCBSA.)

- a. Out of Area Services. Anthem has a variety of relationships with other Blue Cross and/or Blue Shield Licensees referred to generally as "Inter-Plan Programs." Claims for certain services may be processed through one of these Inter-Plan Programs and presented to Anthem for payment in accordance with the rules of the Inter-Plan Programs policies then in effect. The Inter-Plan Programs available to Members under this Agreement are described generally below. Typically, Members' Claims are processed through an Inter-Plan Program when Members obtain care from health care Providers that have a contractual agreement (i.e., are "Network Providers") with a local Blue Cross and/or Blue Shield Licensee ("Host Blue"). In some instances, Members may obtain care from non-Network Providers. Anthem's payment practices in both instances are described below.

In the case of an HMO or EPO plan, Anthem covers only limited health care services received outside of the service area. For the explanations below, references to Covered Services refer to emergency care and urgent care obtained outside of the geographic area Anthem and/or the designated Anthem Affiliate serve. Any other service of the HMO or EPO plan will not be covered when processed through any Inter-Plan Program arrangement.

- b. BlueCard® Program. Under the BlueCard® Program, when Members access Covered Services within the geographic area served by a Host Blue, Anthem will remain responsible to Employer for fulfilling Anthem's contractual obligations. However, in accordance with applicable Inter-Plan Programs policies then in effect, the Host Blue will be responsible for providing such services as contracting and handling substantially all interactions with its Network Providers. The financial terms of the BlueCard Program are described generally below. Individual circumstances may arise that are not directly covered by this description; however, in those instances, Anthem's action will be consistent with the spirit of this description.

- 1. Liability Calculation Method Per Claim. The calculation of the Member liability on Claims for Covered Services processed through the BlueCard Program will be based on the lower of the Network Provider's Billed Charges or the negotiated price made available to Anthem by the Host Blue.

The calculation of Employer liability on Claims for Covered Services processed through the BlueCard Program will be based on the negotiated price made available to Anthem by the Host Blue. Sometimes, this negotiated price may be greater than Billed Charges if the Host Blue has negotiated with its Network Provider(s) an inclusive allowance (e.g., per case or per day amount) for specific health care services. Host Blues may use various methods to determine a negotiated price, depending on the terms of each Host Blue's health care Provider contracts. The negotiated price made available to Anthem by the Host Blue may represent a payment negotiated by a Host Blue with a health care Provider that is one of the following:

- i. an actual price. An actual price is a negotiated payment without any other increases or decreases, or

- ii. an estimated price. An estimated price is a negotiated payment reduced or increased by a percentage to take into account certain payments negotiated with the Provider and other Claim- and non-Claim-related transactions. Such transactions may include, but are not limited to, anti-fraud and abuse recoveries, Provider refunds not applied on a Claim-specific basis, retrospective settlements, and performance-related bonuses or incentives, or
- iii. an average price. An average price is a percentage of Billed Charges representing the aggregate payments negotiated by the Host Blue with all of its health care Providers or a similar classification of its Providers and other Claim- and non-Claim-related transactions. Such transactions may include the same ones as noted above for an estimated price.

Host Blues using either an estimated price or an average price may, in accordance with Inter-Plan Programs policies, prospectively increase or reduce such prices to correct for over- or underestimation of past prices (i.e., prospective adjustments may mean that a current price reflects additional amounts or credits for Claims already paid to Providers or anticipated to be paid to or received from Providers). However, the amount paid by the Member and Employer is a final price; no future price adjustment will result in increases or decreases to the pricing of past Claims.

The BlueCard Program requires that the price submitted by a Host Blue to Anthem is a final price irrespective of any future adjustments based on the use of estimated or average pricing. If a Host Blue uses either an estimated price or an average price on a Claim, it may also hold some portion of the amount that Employer pays in a variance account, pending settlement with its Network Providers. Because all amounts paid are final, neither variance account funds held to be paid, nor the funds expected to be received, are due to or from Employer. Such payable or receivable would be eventually exhausted by health care Provider settlements and/or through prospective adjustment to the negotiated prices. Some Host Blues may retain interest earned, if any, on funds held in variance accounts.

A small number of states require Host Blues either (i) to use a basis for determining Member liability for Covered Services that does not reflect the entire savings realized, or expected to be realized, on a particular Claim, or (ii) to add a surcharge. Should the state in which health care services are accessed mandate liability calculation methods that differ from the negotiated price methodology or require a surcharge, Anthem would then calculate Member liability and Employer liability in accordance with applicable law.

- 2. Return of Overpayments. Under the BlueCard Program, recoveries from a Host Blue or its Network Providers can arise in several ways, including, but not limited to, anti-fraud and abuse recoveries, health care Provider/hospital audits, credit balance audits, utilization review refunds, and unsolicited refunds. In some cases, the Host Blue will engage a third party to assist in identification or collection of recovery amounts. The fees of such a third party may be netted against the recovery. Recovery amounts determined in this way will be applied in accordance with applicable Inter-Plan Programs policies, which generally require correction on a Claim-by-Claim or prospective basis.
- c. Negotiated National Account Arrangements. As an alternative to the BlueCard Program, Member Claims for Covered Services may be processed through a negotiated National Account arrangement with a Host Blue. For purposes of this Article, a "National Account" is an Employer that has membership in more than one state.

If Anthem and Employer have agreed that (a) Host Blue(s) shall make available a custom health care Provider network(s) in connection with this Agreement, then the terms and conditions set forth in Anthem's negotiated National Account arrangement(s) with such Host Blue(s) shall apply. In negotiating such arrangement(s), Anthem is not acting on behalf of or as an agent for Employer, the Plan or Members.

Employer agrees that Anthem will not have any responsibility in connection with the processing and payment of Claims when Members access such network(s), except as may be set forth in the relevant participation agreement.

Member Liability Calculation. Member liability calculation will be based on the lower of either Billed Charges or negotiated price made available to Anthem by the Host Blue that allows Members access to negotiated participation agreement networks of specified Network Providers outside of Anthem's service area.

- d. Non-Network Providers Outside Anthem's Service Area.
1. Member Liability Calculation. When Covered Services are provided outside of Anthem's service area by non-Network Providers, the amount a Member pays for such services will generally be based on either the Host Blue's non-Network Provider local payment or the pricing arrangements required by applicable state law. In these situations, the Member may be responsible for the difference between the amount that the Non-Network Provider bills and the payment Anthem will make for the Covered Services as set forth in this paragraph.
 2. Exceptions. In some exception cases, Anthem may pay Claims from non-Network Providers outside of Anthem's service area based on the Provider's Billed Charges, such as in situations where a Member did not have reasonable access to a Network Provider, as determined by Anthem in Anthem's sole and absolute discretion or by applicable state law. In other exception cases, Anthem may pay such a Claim based on the payment it would make if Anthem were paying a non-Network Provider inside of Anthem's service area, as described elsewhere in this Agreement, where the Host Blue's corresponding payment would be more than Anthem's in-service area non-Network Provider payment, or in its sole and absolute discretion, Anthem may negotiate a payment with such a Provider on an exception basis. In any of these exception situations, the Member may be responsible for the difference between the amount that the non-Network Provider bills and the payment Anthem will make for the Covered Services as set forth in this paragraph.
- e. Inter-Plan Program Fees and Compensation. Employer understands and agrees to reimburse Anthem for certain fees and compensation which it is obligated under BlueCard or any other Inter-Plan Program, to pay to the Host Blues, to the BCBSA, and/or to BlueCard or Inter-Plan Program vendors, as described below. Fees and compensation under BlueCard and other Inter-Plan Programs may be revised in accordance with the specific Program's standard procedures for revising such fees and compensation, which do not provide for prior approval by any groups. Such revisions typically are made annually as a result of Program policy changes and/or vendor negotiations. These revisions may occur at any time during the course of a given calendar year, and they do not necessarily coincide with the Agreement Period. With respect to Negotiated National Account Arrangements, the participation with the Host Blue may provide that Anthem must pay an administrative and/or network access fee to the Host Blue. For this type of negotiated participation arrangement, any such administrative and/or network access fee will not be greater than the comparable fees that would be charged under the BlueCard Program. Anthem will charge these fees as described in Section 7 of Schedule A.

ARTICLE 16 - CLAIMS LITIGATION

- a. Anthem shall defend against any legal action or proceeding brought against Anthem to recover a claim for benefits under the Plan as administered by Anthem. If a demand for benefits under the Plan is asserted, or litigation, investigation, or other proceedings are commenced against Anthem by a Member, or by any other party on behalf of a Member, in connection with the Plan, Anthem shall provide notice to Employer as soon as practicable. Anthem will select and retain counsel. Except as otherwise provided in Article 16(b), Employer will assume liability for payment of attorneys' fees and costs in connection with the litigation, proceeding, or investigation. If Employer or Plan are also named in the legal action or proceeding, Employer reserves the right to retain separate counsel for itself, in its sole discretion and at its own expense, and separate counsel for the Plan. If during such litigation, investigation or proceedings Employer and Anthem are both represented by the same counsel selected by Anthem and a conflict of interest arises, the selected counsel shall continue to represent Anthem's interests. Employer shall waive any conflict for such representation and retain its own counsel, or separate counsel for the Plan, at its own expense. Each Party will provide the other with reasonable cooperation in the defense of any such matter. Anthem is authorized to settle or compromise any claim to recover benefits under the Plan arising out of a course of legal action with the approval of Employer, which approval shall not be unreasonably withheld.
- b. Notwithstanding the above in this Article 16, if Anthem fails to perform its responsibility to review and determine Claims for benefits under the Plan in a manner that is consistent with the standard of care in Article 17 of this Agreement, Anthem will assume liability for payment of its legal fees and costs. However, Anthem is not an insurer of benefits under the Plan nor does it underwrite the risk or otherwise assume any risk for the payment of benefits under the Plan. Under all circumstances, Employer shall be liable to pay Plan benefits awarded or paid by settlement, judgment, or otherwise.

- c. In the event of any legal action or proceeding against the Employer or Plan pertaining to Covered Services described in the Benefits Booklet, Anthem shall make available to Employer, the Plan, and their respective counsel, such evidence that is not privileged or otherwise confidential and is relevant to such action or proceeding.

ARTICLE 17 - INDEMNIFICATION

Except for legal actions or proceedings seeking benefits under the Plan, which are governed by Article 16 of this Agreement, Anthem and Employer shall each indemnify, defend and hold harmless the other Party, and its directors, officers, employees, agents and affiliates, from and against any and all losses, claims, damages, liabilities, costs and expenses (including without limitation, reasonable attorneys' fees and costs) resulting from: (1) the indemnifying Party's or its subcontractor's gross negligence or willful misconduct in the performance of the obligations under this Agreement, and/or (2) the indemnifying Party's failure to provide information required under this Agreement or otherwise required by law that results in a sanction or penalty being assessed against the other Party, and/or (3) the indemnifying Party's or its subcontractor's breach of fiduciary duties under ERISA. The obligation to provide indemnification under this Agreement shall be contingent upon the Party seeking indemnification: (i) providing the indemnifying Party with prompt written notice of any claim for which indemnification is sought, (ii) allowing the indemnifying Party to control the defense and settlement of such claim; provided, however, that the indemnifying Party agrees not to enter into any settlement or compromise of any claim or action in a manner that admits fault or imposes any restrictions or obligations on an indemnified Party without that indemnified Party's prior written consent, which will not be unreasonably withheld; and, (iii) cooperating fully with the indemnifying Party in connection with such defense and settlement.

ARTICLE 18 - CHANGES IN BENEFITS BOOKLET AND AGREEMENT

- a. Either Party reserves the right to propose changes to the provisions described in the Benefits Booklet by giving written notice to the other Party not less than 90 days prior to the start of an Agreement Period and such changes will be made to the Benefits Booklet as mutually agreed to in writing by the Parties. Either Party may also propose changes to the Benefits Booklet at a time other than the start of an Agreement Period and such changes will be made to the Benefits Booklet if mutually agreed to in writing by the Parties. Anthem's incorporation of the requested changes into the Benefits Booklet shall constitute Anthem's acceptance of the Employer's requested changes. If Anthem initiates the proposed changes and does not receive written notice from Employer prior to the effective date of the proposed changes that such changes are unacceptable, the changes shall be deemed acceptable by Employer and Anthem shall incorporate such changes into the Benefits Booklet.
- b. If changes to the provisions of the Benefits Booklet are mandated as a result of a change to any applicable state or federal law, Anthem shall have the right to make such changes to the Benefits Booklet to comply with the law and shall provide written notice to Employer at least 30 days prior to the effective date of the change, unless the effective date specified in the law is earlier.
- c. Anthem also reserves the right to change the Administrative Services Fee at a time other than the start of an Agreement Period upon the occurrence of one or more of the following events: (1) a change to the Plan benefits initiated by Employer that results in a substantial change in the services to be provided by Anthem; (2) a change in ownership as described in Article 3(h) of this Agreement; (3) a change in the total number of Members resulting in either an increase or decrease of 10% or more of the number of Members enrolled for coverage on the date the Administrative Services Fee was last modified; (4) a change in Employer contribution as described in Article 3(e) of this Agreement; (5) a change in nature of Employer's business resulting in a change in its designated Standard Industrial Classification ("SIC") code; or (6) a change in applicable law that results in an increase in the cost or amount of administrative services from those currently being provided by Anthem under this Agreement. Anthem shall provide notice to Employer of the change in the Administrative Services Fee at least 30 days prior to the effective date of such change. If such change is unacceptable to Employer, either Party shall have the right to terminate this Agreement by giving written notice of termination to the other Party before the effective date of the change. If Employer accepts the proposed rates, Anthem shall provide a revised Schedule A that will then become part of this Agreement without the necessity of securing Employer's signature on the Schedule.

- d. In the event any action of any department, branch or bureau of the federal, state or local government is initiated or taken ("Action") against a Party to this Agreement and such Action materially and adversely affects that Party's performance of the obligations under this Agreement, the affected Party shall notify the other Party of the nature of the Action and provide copies of pertinent documents supporting the reason(s) for the Action. If a modification to the Agreement is needed as a result of the Action, the Parties shall meet within 30 days of the notice by the affected Party to the other Party and shall, in good faith, attempt to negotiate a modification to this Agreement that minimizes or eliminates the impact of the Action. If the Parties are unable to minimize or eliminate the impact of the Action, then either Party may terminate this Agreement by giving at least 90 days notice of termination. This Agreement may be terminated sooner if agreed to by the Parties or required by the government entity initiating or taking the Action.
- e. No modification or change in any provision of this Agreement, including but not limited to, changes at renewal, shall be effective unless and until approved in writing by an authorized representative of Anthem and evidenced by an amendment or new Schedule attached to this Agreement.

ARTICLE 19 - TERMINATION AND/OR SUSPENSION OF PERFORMANCE

- a. Notwithstanding any other provision of this Article, this Agreement automatically terminates, without further notice or action, if Employer fails to pay or fund any amount due under this Agreement within 7 days of the date of Anthem's notice to the Employer of a delinquent amount owed. Such termination shall be effective as of the last period for which full payment was made. In addition, this Agreement automatically terminates, without further notice or action, at the end of each Agreement Period unless Anthem offers to renew this Agreement and Employer accepts such offer of renewal pursuant to Article 6 of this Agreement. Upon termination of this Agreement, Employer shall remain liable for all payments due to Anthem under the terms of this Agreement. Notwithstanding the above, Anthem has the right to suspend performance of its obligations under this Agreement if full payment is not made by the Invoice Due Date. Anthem shall have no obligation to pay any Claims under the Agreement until all required payments have been paid in full.
- b. If either Party fails to comply with any material duties and obligations under this Agreement other than payment of amounts due under this Agreement, the other Party shall have the right to: (1) terminate this Agreement by giving the non-compliant Party at least 60 days prior written notice of termination; or (2) upon written notice to the other Party, suspend performance of its obligations under this Agreement. Employer acknowledges and agrees that in the event it is the non-compliant Party, Anthem shall have no liability to any Member. Either Party, at its option, may allow the non-compliant Party to cure a breach of this Agreement and, upon acceptance in writing by that Party that a breach is cured, this Agreement may be reinstated retroactive to the date of the breach or suspension of performance. Notwithstanding any other provision of this Agreement, a Party may seek injunctive or other equitable relief from a court of competent jurisdiction should there be any unauthorized use or disclosure of Proprietary Information or Confidential Information by the other Party.
- c. If there shall occur any change in the condition (financial or otherwise) of Employer or an Employer Affiliate that, in the reasonable opinion of Anthem, has a material adverse effect upon the validity, performance, or enforceability of this Agreement, on the financial condition or business operation of Employer (or Employer Affiliate), or on the ability of Employer to fulfill its obligations under this Agreement, then Anthem shall have the right to require Employer to provide adequate assurance of future performance, which may include a payment of a cash deposit, letter of credit, or other method of assurance acceptable to Anthem. Examples of such a change could include, but would not be limited to the actual, or Anthem's reasonable anticipation of: (1) any voluntary or involuntary case or proceedings under bankruptcy law with respect to Employer or an Employer Affiliate; (2) any receivership, liquidation, dissolution, reorganization or other similar case or proceeding with respect to Employer or an Employer Affiliate; (3) any appointment of a receiver, trustee, custodian, assignee, conservator or similar entity or official for Employer or an Employer Affiliate; or (4) any assignment for the benefit of creditors or sale of all or substantially all of Employer's assets or a key Employer Affiliate's assets.

Any deposit amount shall be paid to Anthem within 30 days of the request or in such shorter time as agreed to by the Parties. The deposit amount shall not be paid with Plan assets, shall not be funded in any part by Member contributions, and shall not be paid from any segregated fund or from funds in which the Plan or any Member has a beneficial interest. The deposit amount shall be the property of Anthem, may be held in Anthem's general account, may be subject to satisfy the claims of Anthem's general creditors, and does not govern or limit the benefits available under the terms of the Plan. At the termination of this Agreement and designated Claims Runout Period, if any, the deposit amount, net of any outstanding fees or Claims amounts payable to Anthem, shall be returned to Employer. Any deposit amount returned to Employer under this Article 19(c) shall not include interest. The deposit amount is the property of Anthem. Neither Employer, the Plan, nor any Member shall have any beneficial or legal ownership interest in any deposit amount paid pursuant to this Section.

If such further assurance is required by Anthem, Anthem may, at any time after the date of notice to Employer of such requirement, suspend performance of its obligations under this Agreement until the date of receipt by Anthem of such adequate assurance without being liable to the Employer, the Plan or any Member for such suspension. If such adequate assurance is not received within 30 days of the request, Anthem may terminate this Agreement.

- d. Subject to the provisions of Article 7 of this Agreement, if this Agreement terminates and Anthem makes payment of any Claim that would otherwise have been payable under the terms of this Agreement after the termination date, Employer shall be liable to reimburse Anthem for such Claim to the extent that the amounts have not already been paid by Employer. Employer also agrees to cooperate fully with Anthem in the coordination of pharmacy Claims with any successor pharmacy benefit manager.
- e. The Employer may terminate this Agreement at any time other than at the end of an Agreement Period by giving Anthem 90 days written notice of its intent to terminate.
- f. In connection with the termination of this Agreement and upon Employer's request, Anthem shall provide reports that are part of Anthem's standard account reporting package at no extra charge. However Anthem shall have no obligation to provide the reports after the termination date of this Agreement if such termination is due to non-payment pursuant to Article 19(a) of this Agreement. Upon Employer's request, Anthem shall also provide data extract files to Employer for an additional fee mutually agreed to by the Parties. In no event shall Anthem be obligated to produce more than two sets of reports following the termination date of this Agreement.

ARTICLE 20 - LIMITATION ON ACTIONS AND GOVERNING LAW

- a. No action by either Party alleging a breach of this Agreement may be commenced after the expiration of 3 years from the date on which the claim arose.
- b. Except to the extent preempted by ERISA or any other applicable provisions of federal law, this Agreement shall be governed by, and shall be construed in accordance with the laws of New Hampshire but without giving effect to that state's rules governing conflict of laws.

ARTICLE 21 - NO WAIVER

No failure or delay by either Party to exercise any right or to enforce any obligation herein, and, no course of dealing between Employer and Anthem, shall operate as a waiver of such right or obligation or be construed as or constitute a waiver of the right to enforce or insist upon compliance with such right or obligation in the future. Any single or partial exercise of any right or failure to enforce any obligation shall not preclude any other or further exercise, or the right to exercise any other right or enforce any other obligation.

ARTICLE 22 - ASSIGNMENT AND SUBCONTRACTING

- a. Unless it has first obtained the written consent of an officer of the other Party, neither Party may assign this Agreement to any other person. Notwithstanding the foregoing, Anthem may, with advance written notice to Employer, assign or otherwise transfer its rights and obligations hereunder, in whole or in part, to: (i) any affiliate of Anthem; or (ii) any entity surviving a transaction involving the merger, acquisition, consolidation, or reorganization of Anthem, or in which all or substantially all of Anthem's assets are sold. Additionally, Employer may, with advance written notice to Anthem, assign, delegate, or otherwise transfer its rights and obligations hereunder, in whole, to (i) any affiliate of Employer; or (ii) any entity surviving a transaction involving the merger, acquisition, consolidation or reorganization of Employer, or in which all or substantially all of Employer's assets are sold, provided that such affiliate or other assignee presents, in Anthem's opinion, an equivalent or better financial status and credit risk. Either Party is required to provide advance written notice under this provision only to the extent permissible under applicable law and the reasonable terms of the agreement(s) governing such merger, acquisition, consolidation, reorganization, or asset sale. If advance written notice is not allowed, notice shall be provided as soon as practicable. Upon receipt of notice of an assignment of this Agreement, the other Party may terminate this Agreement by providing the assigning Party with 30 days advance written notice of termination. Any assignee of rights or benefits under this Agreement shall be subject to all of the terms and provisions of this Agreement.
- b. Either Party may subcontract any of its duties under this Agreement without the prior written consent of other Party; however, the Party subcontracting the services shall remain responsible for fulfilling its obligations under this Agreement.

ARTICLE 23 - NOTICES

- a. Any notice or demand pursuant to Articles 19 and 22 of this Agreement shall be deemed sufficient when made in writing as follows: to Employer, by first class mail, personal delivery, or electronic mail or overnight delivery with confirmation capability, to its principal office shown upon the records of Anthem; to Anthem, by first class mail, personal delivery, electronic mail or overnight delivery with confirmation capability, to the designated Anthem sales representative.
- b. A notice or demand shall be deemed to have been given as of the date of deposit in the United States mail with postage prepaid or, in the case of delivery other than by mail, on the date of actual delivery at the appropriate address.
- c. Employer shall be obligated to provide all notices to Members as may be necessary to effectuate any change in or termination of the Agreement.

ARTICLE 24 - ADMINISTRATION

- a. Employer, on behalf of itself and its Members, hereby expressly acknowledges its understanding that this Agreement constitutes a contract solely between Employer and Anthem, that Anthem is an independent corporation operating under a license with BCBSA permitting Anthem to use the Blue Cross and Blue Shield Service Marks in New Hampshire and that Anthem is not contracting as the agent of BCBSA. Employer further acknowledges and agrees that it has not entered into this Agreement based upon representations by any person other than Anthem and that no person, entity, or organization other than Anthem shall be held accountable or liable to it for any of Anthem's obligations to Employer created under this Agreement. This paragraph shall not create any additional obligations whatsoever on the part of Anthem other than those obligations created under other provisions of this Agreement.
- b. Anthem is providing administrative services only with respect to the portion of the Plan described in the Benefits Booklet. Anthem has only the authority granted it pursuant to this Agreement. Anthem is not the insurer or underwriter of any portion of the Plan. Anthem has no responsibility or liability for funding benefits provided by the Plan, notwithstanding any advances that might be made by Anthem. Employer retains the ultimate responsibility and liability for all benefits and expenses incident to the Plan, including but not limited to, any applicable taxes that might be imposed relating to the Plan.
- c. The Parties acknowledge that the portion of the Plan described in the Benefits Booklet is a self-funded plan and is not subject to state insurance laws or regulations.

- d. Employer shall ensure that sufficient amounts are available to cover Claims payments, the monthly Administrative Services Fee, and other fees or charges.

ARTICLE 25 - ENTIRE AGREEMENT

- a. The following documents will constitute the entire Agreement between the Parties: this Agreement, including any amendments and Schedules thereto, and the Benefits Booklet.
- b. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- c. This Agreement supersedes any and all prior agreements between the Parties, whether written or oral, and other documents, if any, addressing the subject matter contained in this Agreement.
- d. If any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under applicable law, order, judgment or settlement, such provision shall be excluded from the Agreement and the balance of this Agreement shall be interpreted as if such provision were so excluded and shall be enforceable in accordance with its terms.

ARTICLE 26 - DISPUTE RESOLUTION

This Article has been intentionally deleted in its entirety.

ARTICLE 27 - MISCELLANEOUS

- a. Employer and Anthem are separate legal entities. Anthem is strictly an independent contractor. Nothing contained in this Agreement shall cause either Party to be deemed a partner, member, agent or representative of the other Party, nor shall either Party have the expressed or implied right or authority to assume or create any obligation on behalf of or in the name of the other Party through its actions, omissions or representations.
- b. Except as may be explicitly set forth in this Agreement, nothing herein shall be construed as an implied license by a Party to use the other Party's name, trademarks, domain names, or other intellectual property. Neither Party shall use the name, trademarks, domain names, or any other name or mark of the other Party in any press release, printed form, advertising or promotional materials or otherwise, without the prior written consent of the other Party. In addition, Employer has no license to use the Blue Cross and/or Blue Shield trademarks or derivative marks (the "Brands") and nothing in the Agreement shall be deemed to grant a license to Employer to use the Brands. Any references to the Brands made by Employer in its own materials are subject to prior review and approval by Anthem.
- c. Nothing contained herein shall cause either Party to be deemed an agent for service of legal process for the other Party.
- d. Anthem may pay Performance Payments to Providers or Vendors as described in the definition of Paid Claim in this Agreement. Anthem may perform a periodic settlement or reconciliation based on the Provider's or Vendor's performance and experience against established Performance Targets that would: (1) require the Provider or Vendor to repay a portion of a Performance Payment previously paid by Anthem; or (2) require Anthem to make additional payments. Employer acknowledges and agrees that it has no responsibility for additional payments to Providers or Vendors nor any right in any discounts or excess money refunded or paid to Anthem from Providers or Vendors pursuant to such settlement/reconciliation arrangements, and neither it nor the Plan has any legal right or beneficial interest in such sums retained by Anthem. Similarly, if Providers or Vendors do not achieve established Performance Targets, Anthem is not obligated to refund any amounts previously charged Employer. In turn, if under any such settlement/reconciliation Anthem is required to pay Providers or Vendors excess compensation for Member management performance, risk-sharing rewards, or other performance incentives, it shall not seek payment from the Employer or the Plan, and neither the Employer nor the Plan shall have any liability in connection with such amounts. Such Providers or Vendors may include Anthem Affiliates. In calculating any Member co-insurance amounts in accordance with the Benefit Booklet, Anthem does not take into account these settlement/reconciliation arrangements.

- e. The Parties acknowledge that Anthem, in making decisions regarding the scope of coverage of services under the Benefits Booklet, is not engaged in the practice of medicine. Providers are not restricted in exercising their independent medical judgment by contract or otherwise and do not act on behalf of, or as agents for, Anthem or the Plan.
- f. In addition to any other provision providing for survival upon termination of this Agreement, the Parties' rights and obligations under Articles 10, 11, 12, 13, 16, 17, 19, 24, 25(a), 25(c) and 27(d) shall survive the termination of this Agreement for any reason.
- g. Each Party shall comply with all laws and regulations applicable to their respective duties and obligations assumed to under this Agreement.
- h. Anthem and Employer agree to the performance standards set forth in Schedule C.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by affixing the signatures of duly authorized officers.

City of Nashua

Anthem Health Plans of New Hampshire, Inc. dba
Anthem Blue Cross and Blue Shield

By: _____	By: _____
Title: _____	Title: _____
Date: _____	Date: _____

**SCHEDULE A
TO
ADMINISTRATIVE SERVICES AGREEMENT
WITH
CITY OF NASHUA**

This Schedule A shall govern the Agreement Period from July 1, 2013 through June 30, 2014. For purposes of this Agreement Period, this Schedule shall supplement and amend the Agreement between the Parties. If there are any inconsistencies between the terms of the Agreement including any prior Schedules, and this Schedule A, the terms of this Schedule A shall control.

Section 1. Effective Date and Renewal Notice

This Agreement Period shall be from 12:01 a.m. July 1, 2013 to the end of the day of June 30, 2014.

Paid Claims shall be processed pursuant to the terms of this Agreement when incurred and paid as follows:

Incurred from July 1, 2009 through June 30, 2014 and

Paid from July 1, 2013 through June 30, 2014.

Anthem shall provide any offer to renew this Agreement at least 90 days prior to the end of an Agreement Period.

Section 2. Broker or Consultant Base Compensation

Broker or Consultant Fee is \$2.42 per Subscriber per month and is included in the Administrative Services Fees described in Section 3 of this Schedule A. Upon receipt of payment from Employer, Anthem shall remit payment to the broker or consultant designated by Employer.

Section 3. Fees

A. Administrative Services Fee

Administrative Services Fee:

Medical Plan #1 (19940)

HMO Composite \$46.47 per Subscriber per month

Medical Plan #2 (124312)

HMO Composite \$46.47 per Subscriber per month

Medical Plan #3 (19934)

POS Composite \$46.47 per Subscriber per month

Medical Plan #4 (21442)

POS Composite \$46.47 per Subscriber per month

Medical Plan #5 (22821)

HSA Composite \$46.47 per Subscriber per month

Prescription Drug Rebates: Anthem will pay to Employer 100% of the Drug Rebates collected from PBM and attributable to Employer's Plan subject to Anthem's timely receipt of payment and accompanying data from PBM. On a quarterly basis, Anthem shall credit Employer the Drug Rebates it has collected from PBM. Anthem shall have the right to collect from Employer any rebate amount that Anthem is required to pay PBM as a result of a pharmaceutical manufacturer audit or for any other reason. Anthem shall continue to provide Employer its share of the Drug Rebates under this provision until the termination of this Agreement and any applicable Claims Runout period. Anthem shall provide a final report of the Drug Rebates received attributable to Employer's Plan after the end of any applicable Claims Runout period.

Article 3(a) Retroactive Adjustments to Enrollment.

Anthem shall credit Administrative Services Fees for each retroactive deletion up to a maximum of 60 days and shall charge Administrative Services Fees for each retroactive addition up to a maximum of 60 days.

B. Optional Program Fees

Not Applicable

C. Other Fees or Credits

Fee for Independent Claims Review: \$550.00 per independent review

Section 4. Paid Claims, Billing Cycle and Payment Method

A. Paid Claims

Not Applicable

B. Billing Cycle

Weekly

Anthem shall notify Employer of the amount due to Anthem as a result of Claims processed and paid by Anthem according to the billing cycle described above. The actual date of notification of Paid Claims and the Invoice Due Date will be determined according to Anthem's regular business practices and systems capabilities.

C. Payment Method

Wire Transfer Reimbursement for Paid Claims. Employer shall deposit the amount due in a designated Anthem bank account by the Invoice Due Date. The deposit shall be made in accordance with any policies and regulations of the bank necessary to assure that the deposit is credited to Anthem's account no later than the next business day.

Section 5. Administrative Services Fee Billing Cycle and Payment Method

A. Billing Cycle

Monthly List Bill (pay as billed)

Anthem shall notify Employer of the amount due to Anthem pursuant to Section 3 of Schedule A according to the billing cycle described above. The actual date of notification of amounts due and the Invoice Due Date will be determined according to Anthem's regular business practices and systems capabilities.

B. Payment Method

ACH or Wire Transfer Reimbursement. Employer shall deposit the amount due in a designated Anthem bank account by the Invoice Due Date. The deposit shall be made in accordance with any policies and regulations of the bank necessary to assure that the deposit is credited to Anthem's account no later than the next business day.

Section 6. Claims Runout Services

A. Claims Runout Period

Claims Runout Period shall be for the 12 months following the date of termination of this Agreement.

B. Claims Runout Administrative Services Fees

Claims Runout Administrative Services Fees will be included in the Administrative Services Fee in Section 3(a) of this Schedule A.

Section 7. Other Amendments. The Administrative Services Agreement is otherwise amended as follows:

BlueCard Program, Other Inter-Plan Programs and Non-Network Provider Fees

As described in Article 15, certain fees and compensation may be charged each time a Claim is processed through the BlueCard Program, other Inter-Plan Programs, including Negotiated National Account Arrangements, and non-participating Provider Claims. The extent to which they are (i) included in the Administrative Services Fee; or (ii) included in Paid Claims or separately billed to Employer is as follows:

Included in Administrative Services Fee:

BlueCard Program toll-free number fee

BlueCard Program PPO health care provider directory fee

Administrative expense allowance fee ("AEA")

Negotiated National Account Arrangement administrative and/or network access fee. It may be based on either a per Claim, per Subscriber per month or per Member per month basis.

Central Financial Agency fee

ITS transaction fee

Non-Network Provider fees, which include, but are not limited to administrative expense allowance fees, Central Financial Agency Fees, and ITS Transaction Fees.

Included in Paid Claims or separately billed to Employer:

Access fee, which is a percentage of the discount/differential Anthem receives from the Host Blue, based on the current rate in accordance with the BlueCard Program's standard procedures for establishing the access fee rate. The access fee will not exceed \$2,000 for any Claim.

Notice of Loss of Grandfathering Status

In the event Employer maintains a grandfathered health plan(s), as that term is used in the Patient Protection and Affordable Care Act ("PPACA"), Employer shall not make any changes to such plan(s), including, but not limited to, changes with respect to Employer contribution levels, without providing Anthem with advance written notice of the intent to change such plan(s). Making changes to grandfathered plans without notice to Anthem may result in the plan(s) losing grandfathered status and significant penalties and/or fines to Employer and Anthem. In the event Employer implements changes to its plan(s) and does not provide advance notice to Anthem, Employer agrees to indemnify Anthem according to the indemnification provisions set forth elsewhere in this Agreement for any penalties, fines or other costs assessed against Anthem.

Additionally, at each renewal after September 23, 2010, Employer shall affirm in writing, upon reasonable request of Anthem, that it has not made changes to its plan(s) that would cause the plan(s) to lose its/their grandfathered status.

Anthem Health Plans of New Hampshire, Inc. dba
Anthem Blue Cross and Blue Shield

By: _____

Title: _____

Date: _____

**SCHEDULE B
TO
ADMINISTRATIVE SERVICES AGREEMENT
WITH
CITY OF NASHUA**

This Schedule B shall govern the Agreement Period from July 1, 2013 through June 30, 2014. For purposes of this Agreement Period, this Schedule B shall supplement and amend the Agreement between the Parties. If there are any inconsistencies between the terms of the Agreement including any prior Schedules and this Schedule B, the terms of this Schedule B shall control.

SERVICES INCLUDED IN THE ADMINISTRATION FEE IN SECTION 3A OF SCHEDULE A

Management Services

- Anthem standard Benefits and administration, unless otherwise noted below:
 - Anthem definitions and exclusions
 - Anthem complaint and appeals process
 - Claims incurred and paid as provided in Schedule A
 - Accumulation toward plan maximums beginning at zero on effective date
 - Anthem Claim forms
 - Standard ID card
 - Standard Explanation of Benefits
- Acceptance of electronic submission of eligibility information in HIPAA-compliant format
- Preparation of Benefits Booklet (accessible via internet)
- Information for ERISA 5500
- Account reporting - standard data reports
- Billing and Banking Services
 - 15/16 day rule on new hire admin fees
- Plan Design consultation
- Employer eServices
 - Add and delete Members
 - Download administrative forms
 - View Member Benefits and request ID cards
 - View eligibility
 - View Claim status and detail

Claims and Customer Services

- Claims processing services
- Coordination of Benefits
- Recovery Services
- Medicare crossover processing
- Complaint and appeals processing
 - One mandatory level of appeal, one voluntary level of appeal
- Employer customer service, standard business hours

- Member customer service, standard business hours
- 1099s prepared and delivered to Providers
- Residency-based assessments and/or surcharges and other legislative reporting requirements
- Member eServices

Prescription Benefit Services

- Mail Order pharmacy
- Specialty Pharmacy Services
- Prescription eServices
 - Pharmacy locator
 - Online formulary
- Point of sale claims processing
- Mail order claims processing
- Mail order call center with toll free number
- Mail order regular shipping and handling
- Standard management reports
- Ad hoc reports (subject to additional programming charge if required)
- Concurrent Drug Utilization Review (DUR) programs
- Retrospective DURs
- Administrative override (i.e., vacation, lost, stolen or spilled medications)
- Clinical review
- Pharmacy help desk with toll free number
- Pharmacy audits (desk and onsite; routine, in depth or focused)

Health Care Management and 360 Health Services

- Health Care Management
 - Referrals
 - Utilization management
 - Case management
 - Anthem Medical Policy
- SpecialOffers
- HealthCare Advisor
- Care Comparison (where available)
- Transplant services - Blues Distinction

- Healthy Solutions Newsletter (available online)
- MyHealth (Member Portal)
 - Electronic Health Risk Assessment
 - Personal Health Record
 - Online Communities
 - Member Alerts
- 360° Health Services (HMO/POS Plans)
 - ConditionCare
 - Asthma
 - Pulmonary disease
 - Congestive heart failure
 - Coronary artery disease
 - Diabetes
 - Future Moms
 - ComplexCare
 - 24/7 NurseLine

Networks

- Access to networks
 - Provider Network
 - Mental Health/Substance Abuse Network
 - Coronary Services Network
 - Human Organ and Tissue Transplant Network
 - Complex and Rare Cancer Network
 - Bariatric Surgery Network
- Cost Management/Quality improvement program
 - Credentialing
 - Hospital audit program
 - Anthem standard Claims bundling edits
- Anthem.com Provider directory

In addition to the services listed above, Anthem agrees to provide all services that are listed in Schedule A and for which Employer has agreed to pay a separate fee.

Anthem Health Plans of New Hampshire, Inc. dba
Anthem Blue Cross and Blue Shield

By: _____

Title: _____

Date: _____

**SCHEDULE C
TO
ADMINISTRATIVE SERVICES AGREEMENT
WITH
City of Nashua**

This Schedule C provides certain guarantees pertaining to Anthem's performance under the Agreement between the Parties ("Performance Guarantees") and shall be effective for the period from July 1, 2013 through June 30, 2014 (the "Performance Period"). Descriptions of the terms of each Performance Guarantee applicable to the Parties are set forth in the Attachments (the "Attachments") to this Schedule C and made a part of this Schedule C. This Schedule shall supplement and amend the Agreement between the Parties. If there are any inconsistencies between the terms of the Agreement including any prior Schedules and this Schedule C, the terms of this Schedule C shall control.

General Conditions

- A. The Performance Guarantees described in the Attachments to this Schedule C shall be in effect only for the Performance Period indicated above, unless specifically indicated otherwise in the Attachments. The Performance Guarantees shall also contain a measurement period (the "Measurement Period") for which any Performance Guarantee will be calculated. If there are any inconsistencies between the terms contained in this Schedule, and the terms contained in any of the Attachments to this Schedule C, the terms of the Attachments to this Schedule C shall control.
- B. Anthem shall conduct an analysis of the data necessary to calculate any one of the Performance Guarantees within the timeframes provided in the Attachments to this Schedule C. In addition, any calculation of Performance Guarantees, reports provided, or analysis performed by Anthem shall be based on Anthem's then current measurement methodology.
- C. Any audits performed by Anthem to test compliance with any of the Performance Guarantees shall be based on a statistically valid sample size with a 95% confidence level.
- D. If the Parties do not have an executed Agreement, Anthem shall have no obligation to make payment under these Performance Guarantees.
- E. Unless otherwise specified in the Attachments to this Schedule C, the measurement of the Performance Guarantee shall be based on: (1) the performance of any service team, business unit, or measurement group assigned by Anthem; and (2) data that is maintained and stored by Anthem or its Vendors.
- F. If Employer terminates the Agreement between the Parties prior to the end of the Performance Period, or if the Agreement is terminated for non-payment, then Employer shall forfeit any right to collect any further payments under any outstanding Performance Guarantees, whether such Performance Guarantees are for a prior or current Measurement Period or Performance Period.
- G. Anthem reserves the right to make changes to any of the Performance Guarantees provided in the Attachments to this Schedule C upon the occurrence, in Anthem's determination, of either:
 - 1. a change to the Plan benefits or the administration of the Plan initiated by Employer that results in a substantial change in the services to be performed by Anthem or the measurement of a Performance Guarantee; or
 - 2. an increase or decrease of 10% or more of the number of Members that were enrolled for coverage on the latter of the effective date or renewal date of this Agreement.

Should there be a change in occurrence as indicated above and these changes negatively impact Anthem's ability to meet the Performance Guarantees, Anthem shall have the right to modify the Performance Guarantees contained in the Attachments.

- H. For the purposes of calculating compliance with the Performance Guarantees contained in the Attachments to this Schedule C, if a delay in performance of, or inability to perform, a service underlying any of the Performance Guarantees is due to circumstances which are beyond the control of Anthem, including but not limited to any act of God, civil riot, floods, fire, acts of terrorists, acts of war terrorism or, power outage, such delayed or non-performed service will not count towards the measurement of the applicable Performance Guarantee.

Payment

- A. If Anthem fails to meet any of the obligations specifically described in a Performance Guarantee, Anthem shall pay Employer the amount set forth in the Attachment describing the Performance Guarantee. Payment shall be in the form of a credit on Employer's invoice for Administrative Services Fees by no later than the Settlement Periods provided in the Attachments.
- B. Notwithstanding the above, Anthem has the right to offset any amounts owed to Employer under any of the Performance Guarantees contained in the Attachments to this Schedule C against any amounts owed by Employer to Anthem under: (1) any Performance Guarantees contained in the Attachments to this Schedule C; (2) the Agreement, or (3) any applicable Stop Loss Policy.
- C. Notwithstanding the foregoing, Anthem's obligation to make payment under the Performance Guarantees is conditioned upon Employer's timely performance of its obligations provided in the Agreement in this Schedule C and the Attachments, including providing Anthem with the information required by Anthem in the Attachments. Anthem shall not be obligated to make payment under a Performance Guarantee if Employer fails to meet any of its obligations provided in the Attachments related to such Performance Guarantee.

Maximum Amount Payable Under the Performance Guarantees*

Notwithstanding any other provision contained in this Schedule or the Attachments to this Schedule, the maximum amount Anthem shall be obligated to pay to Employer is equal to the sum of:

\$20,000.00

*The Maximum Amount Payable provisions above do not apply to Pharmacy related Performance Guarantees

Anthem Health Plans of New Hampshire, Inc. dba
Anthem Blue Cross and Blue Shield

By: _____

Title: _____

Date: _____

Performance Category	Amount at Risk	Guarantee	Penalty Calculation	Measurement and Reporting Period
Average Speed to Answer	Year 1: \$20,000.00	The average speed to answer (ASA) will be 45 seconds or less. ASA is defined as the average number of whole seconds members wait and/or are in the telephone system before receiving a response from a customer care representative (CCR) or an interactive voice response unit (IVR). This Guarantee will be calculated based on the total number of calls received in the customer service telephone system. This will be measured with employer specific data.	Tiering-National Accounts	Measurement Period
			National Accounts	Annual
			Result	Penalty
			30 seconds or less	None
			31 to 33 seconds	25%
			34 to 36 seconds	50%
			37 to 39 seconds	75%
			40 or more seconds	100%
			<input type="checkbox"/> Option 2: Tiering-Local Accounts	
			Local Accounts	
Call Abandonment Rate	Year 1: \$20,000.00	A maximum of 5.0% of member calls will be abandoned. Abandoned Calls are defined as member calls that are waiting for a customer care representative (CCR), but are abandoned before connecting with a CCR. This Guarantee will be calculated based on the number of calls abandoned divided by the total number of calls received in the customer service telephone system. Calls that are abandoned in less than five seconds will not be included in this calculation. This will be measured with employer specific data.	Tiering-National Only	Measurement Period
			National Accounts	Annual
			Result	Penalty
			3.0% or Less	None
			3.01% to 3.40%	25%
			3.41% to 3.70%	50%
			3.71% to 3.99%	75%
			4.00% or Greater	100%
				Reporting Period
				Annual

Performance Category	Amount at Risk	Guarantee	Penalty Calculation		Measurement and Reporting Period
First Call Resolution	Year 1: \$20,000.00	A minimum of 85% of member calls will be resolved during the initial contact with no further follow up required. First Call Resolution is defined as member callers receiving a response to their inquiry during an initial contact with no further follow-up required. This Guarantee will be calculated based on the total number of members who receive a First Call Resolution divided by the total number of calls received into the customer service telephone system. [This will be measured with employer specific data.]	Tiering		Measurement Period
			Result	Penalty	Annual
			85.0% or Greater	None	Reporting Period
			83.0% to 84.9%	25%	
			81.5% to 82.9%	50%	
			80.0% to 81.4%	75%	Annual
			Less than 80.0%	100%	

Network Drug Pricing Guarantee

Network Drug Pricing Guarantees - Pharmacy Reimbursement Rates

Retail Pharmacy Network Drug Pricing Guarantees and Conditions. The Net Effective Reimbursement Rates for network retail pharmacies will be subject to the following annual "Retail Network Guarantees":

1. Brand Discount Off AWP: 14.50%
2. Brand Dispensing Fee: \$1.40
3. Generic Discount Off AWP: 70.0%
4. Generic Dispensing Fee: \$1.40

The Retail Pharmacy Network Guarantees shall be subject to the following conditions:

(1) The following Claims are excluded from the Retail Network Guarantees: (i) prescriptions filled in Alaska, Hawaii, Puerto Rico; (ii) prescriptions filled in any state which imposes some form of "Most Favored Nations?" limitations on pharmacy reimbursement; (iii) OTC Products, supplies, vaccines, member-submitted Claims, subrogation Claims and in-house Or 340b pharmacy.

(2) Single Source Generics shall be included in the Brand Discount and Brand Dispensing Fee guarantees rather than the Generic Discount and Generic Dispensing Fee guarantees.

(3) The Retail Network Guarantees shall be calculated on an aggregate basis, not a per Claim basis..

(4) For purposes of calculating the Retail Network Guarantee payment, if any, deficits in any of the four Retail Network Guarantees shall be aggregated and reduced by surpluses in any of the Retail Network Guarantees, or any surpluses in any Mail Service Network Guarantee.

Mail Service Pharmacy Network Drug Pricing Guarantees and Conditions. The Net Effective Reimbursement Rates for mail service pharmacy will be subject to the following annual "Mail Service Network Guarantees":

1. Brand Discount Off AWP: 24.0%
2. Brand Dispensing Fee: \$0.00
- 3 Generic Discount Off AWP: 75.0%
4. Generic Dispensing Fee: \$0.00

• Single Source Generics shall be included in the Brand Discount and Brand Dispensing Fee guarantees rather than the Generic Discount and Generic Dispensing Fee guarantees.

• The mail service pharmacy network guarantees above are for a 60 day supply or greater. Mail service pharmacy Claims for less than a 60 day supply are subject to the following guarantees:

1. Brand Discount Off AWP: 24.0%
2. Brand Dispensing Fee: \$1.40
- 3 Generic Discount Off AWP: 75.0%
4. Generic Dispensing Fee: \$1.40

The Mail Service Network Guarantees shall be subject to the following conditions:

(1) Specialty Drugs are excluded from the Mail Service Network Guarantees.

(2) The Mail Service Network Guarantees shall be calculated on an aggregate basis, not a per Claim basis.

(3) For purposes of calculating the Mail Service Network Guarantee payment, if any, deficits in any of the Mail Service Network Guarantees shall be aggregated and reduced by surpluses in any of the Mail Service Network Guarantees or any surpluses in any Retail Network Guarantees.

Settlement of the Retail Network Guarantees and the Mail Service Network Guarantees for an Agreement Period shall occur within 90 days after the Agreement Period. The Net Effective Reimbursement Rate for retail and mail service pharmacy Claims subject to the guarantee shall be compared with the Retail Network Guarantee and Mail Service Network Guarantee amounts. If the total actual guarantee amount exceeds the applicable Net Effective Reimbursement Rate, Anthem will credit the amount of the excess to Employer within 30 days of the calculation.

Definitions. For purposes of this Schedule C, the following terms have the following meanings:

Average Wholesale Price or AWP shall mean the price of a prescription drug dispensed as established and reported by MediSpan, First DataBank, or other nationally recognized pricing source selected by PBM in its sole discretion from time to time. AWP does not represent a true wholesale price, but rather is a fluctuating benchmark provided by third party pricing sources.

In the event that there are court or government imposed or industry wide or pricing source initiated changes in the AWP reporting source or source changes in the methodology used for calculating AWP, including, without limitation, changes in the mark-up factor used in calculating AWP (collectively, the "AWP Changes"), the terms of any financial relationship between the parties that relate to AWP shall be modified by Anthem such that the value of AWP for the purpose of such relationship(s) shall have the same economic equivalence in the aggregate to the value used by the parties prior to the AWP Change. The intent of this provision is to preserve the relative economics of both parties for such financial relationships based upon AWP to that which existed immediately prior to the AWP Change.

Further, in the event that the AWP pricing benchmark used by PBM hereunder is replaced with another benchmark calculation, PBM may switch to such new pricing benchmark upon 30 day prior written notice to Employer, and such notice will identify any new pricing terms, if any, required to maintain economic equivalence in the aggregate under the new benchmark.

Net Effective Reimbursement Rate shall mean the overall reimbursement rate paid to pharmacy Network Providers.

Single Source Generics shall mean those generic drugs which are provided by two or less Pharmaceutical Manufacturers or such Generic Drugs that are in the market with supply limitations or competitive restrictions.

Specialty Drugs are high-cost, injected, infused, oral or inhaled medications (including therapeutic biological products) that are used to treat chronic or complex illnesses or conditions. Specialty drugs may have special handling, storage and shipping requirements, such as temperature control. Specialty drugs may require nursing services or special programs to encourage patient compliance.

Brand Name Prescription Drug or Brand Drug shall mean a prescription drug that is not a Generic Drug.

Dispensing Fee shall mean the amount, other than the AWP minus a discount and any applicable incentives determined by Anthem as compensation to Participating Pharmacies for providing prescription drugs.

Generic Prescription Drug or Generic Drug shall mean a prescription drug, whether identified by its chemical, proprietary, or non-proprietary name, that is therapeutically equivalent and interchangeable with drugs having an identical amount of the same active ingredient.

Group Name: CITY OF NASHUA
 Firm ID: 344217
 Effective: 07/01/16



REFER TO SUMMARY OF BENEFITS

Benefit: **ABN260PY** Medical \$20 OV, \$250/500 Ded 100% Coin \$100 ER
 Drug \$5/15/35 RETAIL; \$5/30/70 MAIL; UNLIMITED

BNE182PN Medical \$20 OV, \$250/500 Ded 100% Coin \$100 ER
 Drug \$5/15/35 RETAIL; \$5/30/70 MAIL; UNLIMITED

CGHSA16001 Medical \$2000 IN & OON 2XAF 100% IN 70/30% OON Coin INN OOP \$2000/4000; OON OOP \$4000/8000
 Drug Ded/Coins

Specific	N/A	Aggregate:	N/A	Contract Terms:	24/12 (PAID)
Current				State *	Current
		Administration		Assessments	Counts
ABN260PY					
Individual		\$48.25		\$0.02	535
Couple		\$48.25		\$0.05	342
Parent/Child		\$48.25		\$0.05	111
Family		\$48.25		\$0.07	571
BNE182PN					
Individual		\$48.25		\$0.02	64
Couple		\$48.25		\$0.05	30
Parent/Child		\$48.25		\$0.05	2
Family		\$48.25		\$0.06	28
CGHSA16001					
Individual		\$48.25		\$0.03	59
Couple		\$48.25		\$0.05	36
Parent/Child		\$48.25		\$0.05	19
Family		\$48.25		\$0.07	126
Annual Totals		\$1,113,417		\$1,112	1923
	PEPM	\$48.25		\$0.05	1923
	PMPM	\$20.03		\$0.02	4632

Renewal		Administration**		State *	Current
				Assessments	Counts
ABN260PY					
Individual		\$49.40		\$2.21	535
Couple		\$49.40		\$4.42	342
Parent/Child		\$49.40		\$4.42	111
Family		\$49.40		\$5.97	571
BNE182PN					
Individual		\$49.40		\$2.04	64
Couple		\$49.40		\$4.08	30
Parent/Child		\$49.40		\$4.08	2
Family		\$49.40		\$5.51	28
CGHSA16001					
Individual		\$49.40		\$2.39	59
Couple		\$49.40		\$4.79	36
Parent/Child		\$49.40		\$4.79	19
Family		\$49.40		\$6.46	126
Annual Totals		\$1,140,037		\$98,742	1923
	PEPM	\$49.40		\$4.28	1923
	PMPM	\$20.51		\$1.78	4632
Percent Increase:		2.4%			

Advance Deposit: \$560,953 Group's current balance on 7/1/2016 will be applied to satisfy this deposit.

* Actual Assessments for the Vaccine Program are assessed on child covered lives (<19 yrs residing in NH) and will appear on the monthly medical ASO bill. The rate is currently \$9.95 and is subject to change.

** ASO admin fees will be billed on a PEPM basis. Anthem ASO Administration fee assumes Rx Rebate sharing (with CON) at 100%.

If CON agrees to a three year contract, Anthem will guarantee that the Anthem Administration fee increase for years 2 and 3 will be limited to a max/year of 2.5%.

***The benefits reflected in this quotation have been adjusted to comply with changes required by the Affordable Care Act beginning in 2014.

Anthem does not include any standard commissions in administrative retention paid by group.
 This quote carries commissions requested by the Producer of Record as follows:

			PEPM
Commissions	Admin Fee	\$ 55,843.92	\$2.42
	Stop Loss	\$ -	\$0.00
Total Commissions		\$ 55,843.92	\$2.42

The above commissions may vary from final commissions because they are based on estimated membership while final commissions are based on actual membership.

LB
 I have read and agreed to the terms and conditions as outlined in the ASO Pricing Assumptions.

Total # of eligible employees: _____

Employer's signature: _____ Date: _____

Group Name: CITY OF NASHUA
Firm ID: 344217
Effective: 07/01/16



Standard ASO Pricing Assumptions

The proposed services, rates and fees are effective from July 1, 2016 through July 1, 2017.

This contract will be issued in New Hampshire.

Our quote assumes that 1923 employees will be enrolling for medical coverage, with an average member to employees ratio of 2.41.

Quoted rates are subject to review of audited financial statements and Dun & Bradstreet reports prior to final sale.

Anthem reserves the right to amend these rates due to any taxes, fees and assessments prescribed by any statutory, regulatory, or other legal authority, which may bear directly on the financial consequences of this quote.

This proposal expires [60] days from the date of release of this proposal or on the effective date whichever is sooner.

The health benefit plan(s) reflected in this quote is not considered to be grandfathered under the provisions of the Patient Protection and Affordable Care Act. Nongrandfathered plans are subject to additional provisions under the Patient Protection and Affordable Care Act that do not apply to grandfathered plans. For further information, please contact your account representative. This renewal rate includes changes to the standard medical plan to ensure compliance with the requirements of the federal health care reform legislation for nongrandfathered plans, including 100 percent coverage of in-network preventive care services.

Anthem Blue Cross and Blue Shield reserves the right to revise this proposal under any of the following circumstances:

- (1) a change to the Plan benefits initiated by Employer that results in a substantial change in the services to be provided by Anthem Blue Cross and Blue Shield;
- (2) a change in ownership
- (3) a change in the total number of Subscribers or Members resulting in either an increase or decrease of [10%] or more of the number of Subscribers or Members enrolled for coverage on the date the Administrative Services Fee was last modified;
- (4) a change in Employer contribution
- (5) a change in nature of Employer's business resulting in a change in its designated Standard Industrial Classification ("SIC") code; or
- (6) a change in applicable law that results in an increase in the cost or amount of administrative services from those currently being provided by Anthem Blue Cross and Blue Shield. The cost for our standard reporting package is included in the proposed ASO fee. Non-standard reports may be subject to an additional fee depending on the complexity and frequency requested.

Electronic eligibility or tape feeds must be in a format compatible with our systems.

Anthem Blue Cross and Blue Shield's proposal assumes claims incurred prior to the effective date are not included unless specifically noted.

A change in the contract period will require a recalculation of fees.

The cost of our standard reporting package is included in the proposed ASO fee. Non-standard reports may be subject to an additional fee depending on the complexity and frequency requested.

Proposed rates are payable by the invoice due date.

Section 1341 of the Affordable Care Act (ACA or health care reform law) provides that a transitional reinsurance program be established in each State to help stabilize premiums for coverage in the individual market during the years 2014 through 2016. ACA Reinsurance Fees in 2014 are estimated to be \$5.25 per participant per month. This quote or renewal does not include the ACA Reinsurance Fees, since it is assumed that the employer will remit payment to HHS directly.

Federal law requires group health plans to cover services for mental health care or substance abuse at the same levels as your medical services. Generally speaking, this means visit limits and the amounts you pay (such as copayments and deductibles) must be the same for covered services that treat body or mind. This is called "mental health parity."

For renewals on or after July 1, 2014, we reviewed your plan benefits to make sure they comply with the mental health parity laws. Certain visit limits will no longer apply to autism services. No other changes are needed.

BlueCard Access fees are included in paid claims amount. The BlueCard Access Fee is charged at a percentage no greater than 4.79% of the discount subject to a maximum of \$2,000 per claim. Access fees vary depending on the specific arrangement in local plan areas. For a complete description of these fees, please consult your ASO Agreement.

**SUMMARY OF THE 1996 NEW HAMPSHIRE LIFE AND HEALTH
INSURANCE GUARANTY ASSOCIATION ACT (RSA 408-B)
AND
NOTICE CONCERNING COVERAGE LIMITATIONS AND EXCLUSIONS**

Residents of New Hampshire who purchase life insurance, health insurance, and annuities should know that the insurance companies licensed in New Hampshire to write these types of insurance are members of the New Hampshire Life and Health Insurance Guaranty Association. The purpose of this Association is to assure that policyholders will be protected, within limits, in the unlikely event that a member insurer becomes financially unable to meet its policy obligations. If this should happen, the Association will assess its other member insurance companies for the money to pay the covered claims of policyholders who live in New Hampshire and, in some cases, to keep coverage in force. This protection is not a substitute for consumers' care in selecting companies that are well-managed and financially stable. The valuable extra protection provided by these insurers through the Guaranty Association is not unlimited, however, as noted below.

IMPORTANT DISCLAIMER

The New Hampshire Life and Health Insurance Guaranty Association may not provide coverage for this policy. If coverage is provided, it may be subject to substantial limitations or exclusions, and require continued residency in New Hampshire. Other conditions may preclude coverage.

Coverage is NOT provided for your policy or any portion of it that is not guaranteed by the insurer or for which you have assumed the risk, such as a variable contract sold by prospectus.

Insurance companies or their agents are required by law to give or send you this notice. **However, insurance companies and their agents are prohibited by law from using the existence of the Association to induce you to purchase any kind of insurance policy.**

This information is provided by:

New Hampshire Life and Health Insurance Guaranty Association
47 Hall Street, Suite 2
Concord, NH 03301
(603) 226-9114

New Hampshire Department of Insurance
21 South Fruit Street, Suite 14
Concord, NH 03301
(603) 271-2261

(please turn to next page)

SUMMARY:

The 1996 state law that provides for this safety-net coverage is called the New Hampshire Life and Health Insurance Guaranty Association Act. Below is a brief summary of this law's coverage, exclusions and limits. This summary does not cover all provisions of the law and it does not in any way change one's rights or obligations under the Act or the rights or obligations of the Association.

COVERAGE:

Generally, individuals will be protected by the New Hampshire Life and Health Insurance Guaranty Association if they live in this state and hold a life or health insurance policy or an annuity contract, or if they are insured under a group insurance contract, issued by a member insurer. The beneficiaries, assignees or payees of insured persons are protected as well, even if they live in another state.

Coverage provided under this Act may be different from coverage provided prior to 1996, as coverage is determined by the governing Act in effect on the date that the Association becomes obligated.

EXCLUSIONS FROM COVERAGE:

Persons holding such policies or contracts are NOT protected by this Association if:

- they are not residents of the state of New Hampshire, except under certain very specific circumstances;
- they are eligible for protection under the laws of another state; or
- their policy was issued by a nonprofit hospital or medical service organization, an HMO, a fraternal benefit society, a mandatory state pooling plan, a mutual assessment company or any entity that operates on an assessment basis, an insurance exchange, or any entity similar to any of the above.

The Association also does NOT provide coverage for:

- any policy or portion of a policy or contract not guaranteed by the insurer or under which the risk is borne by the policy holder or contract holder;
- any policy or contract of reinsurance, unless assumption certificates have been issued;
- interest rate guarantees that exceed certain statutory limitations;
- any plan or program of an employer, association, or similar entity to provide life, health, or annuity benefits to its employees or members to the extent that the plan or program is self-funded or uninsured, including, but not limited to, benefits payable by an employer, association, or similar entity;
- dividends, experience rating credits, or fees for services in connection with an insurance policy;
- any policy or contract issued in this state by an insurer at a time when it was not licensed or authorized to do business in New Hampshire;
- any unallocated annuity contract issued to an employee benefit plan protected under the federal Pension Benefit Guaranty Corporation;
- any portion of any unallocated annuity contract which is not issued to or in connection with a specific employee, union, or association of natural persons benefit plan or a government lottery; or
- any portion of a policy or contract to the extent that the required assessments are preempted by federal or state law.

LIMITS ON AMOUNT OF COVERAGE

The Act also limits the amount the Association is obligated to pay. The Association cannot pay more than what the insurance company would owe under a policy or contract.

With respect to any one life, the Association will pay a maximum of \$300,000 - no matter how many policies and contracts there were with the same company, even if they provided different types of coverages. Within this overall \$300,000 limit, the Association will not pay more than \$100,000 in cash surrender values, \$100,000 in health

insurance benefits, \$300,000 in long-term care benefits, \$100,000 in present value of annuities, or \$300,000 in life insurance death benefits.

With respect to any one contract holder of an unallocated annuity contract, not including a governmental retirement plan established under Section 401, 403(b) or 457 of the U.S. Internal Revenue Code, the Association will pay a maximum of \$5,000,000 in benefits, irrespective of the number of such contracts held by that contract holder.

ADDITIONAL INFORMATION:

Policyholders should contact the New Hampshire Insurance Department with questions they may have with regard to concerns about their rights under the Act and procedures for filing a complaint to allege a violation of the Act.

Policyholders may contact the New Hampshire Insurance Department for sources of information about the financial condition of insurers.

HARVARD PILGRIM HEALTH CARE, INC.

PURCHASER SERVICE AGREEMENT

This Agreement, made effective and entered into this 1st day of July, 2002, (Effective Date) by and between CITY OF NASHUA (hereinafter referred to as "Purchaser"), and HARVARD PILGRIM HEALTH CARE, INC., a corporation organized under the laws of the Commonwealth of Massachusetts (hereinafter "HPHC").

WHEREAS, Purchaser has adopted one or more self-insured health care plan(s) (hereafter the "Plan(s)") for eligible employees, retirees, and the dependents thereof under which such persons are entitled to certain health service benefits (hereafter "Covered Services");

WHEREAS, Purchaser desires to purchase certain administrative and provider contracting services for operation of its Plan from HPHC as set forth below;

WHEREAS, HPHC desires to provide such administrative and provider contracting services for Purchaser's Plan; and

WHEREAS, a copy of the Plan instrument(s) is/are attached hereto as Attachment E.

NOW THEREFORE, in consideration of the promises and mutual covenants contained herein the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed by and between the parties as follows:

I. SERVICES AND COMPENSATION

1.1 Administrative Services. HPHC shall perform for Purchaser the administrative services set forth in Attachment A, "Administrative Services" attached hereto and incorporated herein by reference (hereafter "Services"), for the operation of the Plan. HPHC shall perform these Services in accordance with the reasonable exercise of its business judgment and all applicable statutory and regulatory requirements. Purchaser shall at all times retain ultimate control over the assets and operations of the Plan and final responsibility for the obligations of the Plan imposed by law. HPHC shall perform the functions described in this Agreement in accordance with policies, directives, and controlling documents of the Plan.

1.2 Provider Contracting Services. To the extent any Plan provides for use of contracting providers by Members, then through contractual arrangements ("Provider Contracting Services"), HPHC shall establish a network of physicians, hospitals and other health care providers or entities, contracting with such providers for the provision of Covered Services from health care providers ("Contracting Providers") to Members. A current list of Contracting Providers will be provided to Purchaser by HPHC from time to time as required, either in print or electronic media. Purchaser shall compensate Contracting Providers for Covered Services in accordance with the Contracting Provider Compensation Provisions attached hereto as Attachment B, and incorporated herein by reference.

1.3 Approval of Materials. Purchaser retains the right to review printed materials, which are distributed by HPHC to Members of Purchaser's Plan. Prior to distribution HPHC shall provide Purchaser or its Designee sample copies of the printed materials. HPHC shall distribute such materials to Purchaser's Members unless Purchaser or its Designee instructs HPHC to delay or cancel such distribution within a reasonable period of time prior to distribution. See Attachment A for the provision of non-standard printed materials. This provision does not apply to patient/clinician communications or other written communications intended for a specific individual.

1.4 Providers as Third Party Beneficiaries. Purchaser acknowledges and agrees that Contracting Providers shall be intended third party beneficiaries of Purchaser's obligation to pay such providers under Section 2.2.

1.5 HPHC Compensation. Purchaser shall pay HPHC a monthly fee for the Services HPHC provides, in the amounts and manner specified in Attachment C, which attachment is incorporated herein by reference. It is specifically provided that HPHC may amend the Service fees payable to HPHC under Attachment C, and HPHC shall use reasonable efforts to provide advance written notice of such proposed Service fee amendment to Purchaser at least sixty (60) days prior to an anniversary date of this Agreement. In the event that HPHC fails to provide notice to Purchaser in a timely manner, HPHC may propose an amendment to the Service fees payable to HPHC by submitting written notice to Purchaser which, upon acceptance by Purchaser, shall become effective on the first day of the month following sixty (60) days written notice, but in no event shall HPHC amend its Service fees more than one time in each twelve (12) month period without the agreement of both parties. If Purchaser fails to accept such proposed amendment as provided above within thirty (30) days from receipt of notice of HPHC's proposed Service fee amendment, or if some other Service fee is not agreed to by both parties, HPHC may terminate this Agreement upon sixty (60) days prior written notice.

1.6 List of Members. Purchaser will provide HPHC with a list of Members who are eligible and have elected to receive benefits under the Plan. The list shall include all appropriate demographic data required for HPHC to carry out its obligations under this Agreement. HPHC may rely upon such list in performing its duties hereunder. Purchaser, or its designee, will notify HPHC of any additions, changes, deletions or modifications to the list of Members on a monthly, or more frequent, basis. Purchaser may add Members retroactively for up to 180 days, and may terminate Members retroactively for up to 60 days.

1.7 Eligibility. Purchaser has established the eligibility requirements for participation of Members in the Plan. Purchaser shall notify HPHC in writing of any changes in eligibility requirements. If the provisions of any state or federal law or regulation are changed which affect the eligibility of or the determination of eligibility of persons participating in this Plan, Purchaser shall notify HPHC as described above, and HPHC and Purchaser shall make all changes necessary to accomplish the required change.

1.8 Access to Purchaser Records.

(i) All business and health services records relating to the operation of the Plan, including but not limited to, all books of account, enrollment records, and general

administrative records shall be and remain the sole property of Purchaser. In addition, all information generated under and/or contained in HPHC's information system pertaining to the Plan, except for Member identifiable medical records and other privileged information, shall also be and remain the property of Purchaser. HPHC shall assist in establishing, maintaining and carrying out procedures for the keeping and preservation of the Plan's books and records, including providing for the manner and time of their preservation in accordance with all applicable laws. HPHC shall use reasonable efforts to protect the confidentiality of the records of the Plan. In this connection, medical records and other privileged information regarding Members will not be disclosed by HPHC except (a) with the consent of the Member or of the Member's parent or guardian if the Member is a minor person, unless otherwise required by law, (b) pursuant to a court order, (c) if allowed by applicable law, as necessary for the efficient operation of the Plan, or (d) when required by applicable law. A confidentiality statement signed by Purchaser and/or its Designee may be required. HPHC's Confidentiality Guidelines shall be applicable to this Agreement. See Attachment H incorporated herein by reference.

(ii) Notwithstanding the foregoing, unless prohibited by law or inconsistent with National Committee on Quality Assurance (NCQA) standards, HPHC shall make available to Purchaser's Designee, all confidential and non-confidential claims data necessary for the identification, reporting and adjudication of claims under the requirements of Purchaser's stop-loss policy, without requiring a court order. All charges for providing such data shall be specified in Attachment C. Purchaser shall indemnify and hold harmless HPHC from any and all costs or claims associated with the release of such information (including data released upon termination as provided herein) to Purchaser.

(iii) Upon termination of this Agreement for any reason, HPHC shall, as soon as practicable, but no later than ninety (90) days from the date of termination, deliver in usable form to Purchaser or its Designee appropriate and reasonable claims data pertaining to the Plan for Purchaser's Members, on electronic media, as mutually agreed upon, in HPHC's possession. HPHC may charge Purchaser a fee for the preparation and transfer of these records on electronic media. Data that is collected subsequent to the termination date shall be delivered to Purchaser or its Designee at thirty (30) day intervals, and the cost of the preparation and transfer of this information shall be included as a preparation and transfer fee. HPHC may retain copies of information reasonably necessary for its operation. HPHC shall, after termination of this Agreement for any reason, continue to provide Purchaser's Designee in accordance with Sections 1.8 (i), (ii) and (iii), confidential and non-confidential claims data necessary for the identification, reporting and adjudication of claims for as long as the terms of Purchaser's stop-loss policy are applicable to this Agreement and remain in effect. A copy of Purchaser's stop-loss policy, if applicable to this Agreement, is attached hereto as Attachment G.

1.9 Cooperation. Purchaser shall cooperate with HPHC in the performance of its Services hereunder and HPHC shall not be liable for any breach of obligations of this Agreement caused, in whole or in part, by the lack of cooperation or breach of obligations by the Purchaser or lack of cooperation by Members. HPHC shall cooperate with Purchaser and its Designee in providing all data, reports, and other services described in this Agreement, subject to the terms of this Agreement relating to the provision of Member identifiable confidential and/or privileged information including medical records. In accordance with Attachment A, HPHC shall assist as requested and provide such information to Purchaser or its Designee or to potential stop loss carriers as is necessary to obtain stop loss quotations and policies. A charge will be made for the provision of any information, however, that is not specifically designated in Attachment A as a Covered Service. Purchaser shall assist HPHC,

as requested, in obtaining executed confidentiality agreements from any entity other than Purchaser which Purchaser has requested receive any data HPHC deems confidential and/or privileged. Both parties agree to cooperate with each other as necessary to assure compliance with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA").

1.10 Independent Contractors. Except as otherwise specifically provided herein, the relationship between Purchaser and HPHC and between HPHC and Contracting Providers is an independent contractor relationship. Contracting Providers are not employees or agents of HPHC and neither HPHC nor any employee of HPHC is an employee or agent of Contracting Providers of care. HPHC is not an employee or agent of Purchaser and will perform only those functions for Purchaser as set forth in this Agreement. Neither HPHC nor Purchaser will hold HPHC out to third parties as having any authority from Purchaser not granted by this Agreement. HPHC is not responsible and shall not be liable for any claims which may arise from the provision of medical and/or hospital services to Members by Participating Providers.

1.11 Provider-Patient Relationship. Contracting Providers of care maintain the physician/ hospital-patient relationship with Members and are solely responsible to Members for all services they provide.

1.12 Hold Harmless. HPHC agrees to indemnify, defend and hold harmless Purchaser and its employees, elected officials, agents, contractors, Designee, past and present, from and against any and all damages, penalties, costs, claims, suits, demands, causes of action or expenses (including reasonable attorneys' fees) which may be imposed upon, or incurred as a result of, or arising from, or in any way connected with, any gross negligence or willful act or omission, fraud or criminal conduct of HPHC, its officers, directors, employees or agents, past and present. Provided, however, nothing herein makes HPHC liable for any benefit that would otherwise be payable under the Plan.

Purchaser agrees to indemnify, defend and hold harmless HPHC and their respective subsidiaries and affiliates, and their respective employees, directors, agents, contractors, officers, and designees, past and present, from and against any and all damages, penalties, costs, claims, suit, demands, causes of action or expenses (including reasonable attorneys' fees) which may be imposed upon, or incurred as a result of, or arising from, or in any way connected with, any gross negligence or willful act or omission, fraud or criminal conduct of Purchaser, its officers, directors, employees or agents, past and present.

1.13 Legal Defense. Notwithstanding any provision of this Agreement to the contrary, the defense, including legal fees and costs, together with the amount of any judgment, of any legal action arising out of a claim for benefits under the Plan, shall be the responsibility of the Purchaser, and shall not be an obligation of HPHC. HPHC shall, however, cooperate with Purchaser by furnishing such material or information as it has available in connection with the defense of any such action.

1.14 Expenses. HPHC will not be considered the insurer, guarantor or underwriter of the liability of the Purchaser to provide Covered Services to Members. Purchaser will be responsible for all expenses incident to the operation of the Plan or related to the provision of Covered Services, except as may be specifically assumed by HPHC under this Agreement. Purchaser shall make funds available to HPHC, for payment of Covered Services, in accordance with Attachment D, "Funding of Covered Services," attached hereto and incorporated by reference.

1.15 Standard and Character of Performance. HPHC shall use customary and reasonable care and proper diligence in the performance of Services under this Agreement. It is understood and agreed by the parties that the term "customary and reasonable care and proper diligence" does not make HPHC a guarantor of the correctness of all claims payments and other services performed under this Agreement, but refers to the usual business practice standards and conduct in such business.

1.16 Incorrect Payments. HPHC agrees to investigate all questionable claims or payments referred to it by Purchaser, to report to Purchaser the results of such investigation, and to attempt to collect on behalf of the Purchaser any payments improperly paid. If any payment is made hereunder to or for an ineligible employee, retiree and/or dependent, or if it is determined that more or less than the correct amount has been paid by HPHC or that HPHC has made an incorrect payment because a Contracting Provider has billed the incorrect amount, HPHC shall attempt to recover the payment made to or for the ineligible person or the amount of the overpayment made to or for any eligible person, or will adjust the underpayment, but HPHC shall not be required to initiate court proceedings to recover any incorrect payment. If HPHC is unsuccessful in its attempts to recover any improper payment, it shall so notify Purchaser in order that Purchaser may take such actions as it shall deem appropriate to collect such amount. Purchaser agrees that HPHC may contract with a third party to seek recovery and may pay commercially reasonable fees for such service, which will be deducted from any recovery made on behalf of the Purchaser. In the event the error was a result of HPHC's gross negligence or willful misconduct in claims processing and payment, HPHC shall indemnify Purchaser. If HPHC subcontracts with an independent contractor to pursue recovery of any overpayments, the independent contractor may retain the percentage of the recovery that is specified in its contract with HPHC, and HPHC will credit to the Purchaser the balance of such recovery.

1.17 Reliance on Communications. In all matters pertaining to the performance of Services under this Agreement, HPHC, when it acts in good faith, may rely upon any notice, resolution, instruction, direction, order, certificate, opinion, letter, telegram or other document received by it from Purchaser. If the Plan is amended, HPHC shall not be required to act in accordance with any amendment until it receives written notice thereof and until such amendment is approved by any insurance carrier providing excess, or stop-loss insurance or reinsurance on behalf of the Plan.

1.18 Proprietary Information. Purchaser acknowledges that HPHC, in providing Services under this Agreement, may need to divulge to and provide Purchaser or its Designee with confidential proprietary plans, programs, formulae, methods and other products and information ("Proprietary Material") relating to the business services and activities of HPHC or its contractors, including Proprietary Material developed in the course of providing Services hereunder. Purchaser agrees that, during the term of the Agreement and thereafter, Purchaser and its Designee shall consider all information provided by HPHC to Purchaser and its Designee Proprietary Material unless clearly marked as non-proprietary, and that Proprietary Material shall remain the property of HPHC or its contractors and Purchaser shall maintain the confidentiality of such Proprietary Material and shall not use, divulge, furnish or make accessible such Proprietary Material to anyone other than is necessary for the Plan's operations.

1.19 Other Obligations. HPHC agrees that it shall perform all Services described in

Attachment A with proper diligence. HPHC also agrees that:

- (i) A trained HPHC representative shall be available to meet with representatives of Purchaser and its Designee to discuss the costs, health care benefits, provider network, administration of the Plan, and future directions of the Plan.
- (ii) HPHC shall maintain a toll free telephone number for use by Purchaser's Members, Purchaser and its Designee. HPHC shall have trained personnel to answer questions regarding claims, benefits and provider networks.
- (iii) HPHC shall work with Purchaser and its Designee to effect a smooth and efficient initial open enrollment period, including employee/retiree health fair(s), and subsequent open-enrollment periods and health fairs.
- (iv) HPHC shall provide claim and enrollment data and reports as scheduled in Attachment A in a format and manner satisfactory to Purchaser or its Designee, acceptance of which shall not be unreasonably withheld.
- (v) HPHC shall develop and/or maintain a network of Contracting Providers which shall reasonably meet the needs of Purchaser's Members.
- (vi) HPHC shall develop and/or maintain a network of participating pharmacies that shall reasonably meet the needs of Purchaser's covered Members.

II. TERM AND TERMINATION OF AGREEMENT

2.1 Effective Date. The effective date of this Agreement shall be as first written above, and it shall continue in effect thereafter for an initial term of 12 months, and from year to year thereafter, subject to the termination provisions set forth below.

2.2 Termination on Anniversary Date. Either party may terminate this Agreement effective on any anniversary date by written notice at least sixty (60) days prior to such anniversary date.

2.3 Termination on Notice. Either party may terminate this Agreement upon ninety (90) days written notice.

2.4 Termination for Cause by HPHC. HPHC shall have the option to immediately terminate this Agreement upon the occurrence of any of the following:

(i) Purchaser shall violate any covenant of this Agreement and/or any other agreement that is mentioned herein and shall fail to cure such violation within thirty (30) days after written notice thereof; or

(ii) Purchaser shall make an assignment for the benefit of creditors or apply to any tribunal for the appointment of a trustee or receiver for any substantial part of its assets, or cause to be commenced any proceeding relating to it under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution, or liquidation laws of any jurisdiction; or

(iii) If any such application shall be filed or any such proceedings commenced against Purchaser by any other party or an order shall be entered at the instance of any other party appointing any such trustee or receiver, or adjudicating Purchaser a bankrupt or insolvent, or approving a petition in any such proceedings, and such application, proceedings,

or order shall remain in effect for sixty (60) days; or

(iv) There exists the issuance of an attachment, garnishment or similar process against any substantial part of the property of Purchaser and such attachment, garnishment or other similar process shall not be dismissed within sixty (60) days unless Purchaser shall contest the validity of such action by appropriate proceedings taken in good faith within the sixty (60) day period; or

(v) The occurrence of any event, which with the passage of time or otherwise, would become an event of default under any other agreement, note, lease, mortgage or obligation to which Purchaser is a party, unless any such event of default shall be timely cured under any applicable cure provision, but without regard to any waiver by any other person of any event of default; or

(vi) Purchaser shall admit in writing that it is unable to meet its current financial obligations.

2.5 Termination for Cause by Purchaser. Purchaser shall have the option to immediately terminate this Agreement upon the occurrence of any of the following:

(i) HPHC shall violate any covenant of this Agreement and/or any other agreement that is mentioned herein and shall fail to cure such violation within thirty (30) days after written notice thereof; or

(ii) HPHC shall make an assignment for the benefit of creditors or apply to any tribunal for the appointment of a trustee or receiver for any substantial part of its assets, or cause to be commenced any proceeding relating to it under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution, or liquidation laws of any jurisdiction; or

(iii) If any such application shall be filed or any such proceedings commenced against HPHC by any other party or an order shall be entered at the instance of any other party appointing any such trustee or receiver, or adjudicating HPHC a bankrupt or insolvent, or approving a petition in any such proceedings, and such application, proceedings, or order shall remain in effect for sixty (60) days; or

(iv) There exists the issuance of an attachment, garnishment or similar process against any substantial part of the property of HPHC and such attachment, garnishment or other similar process shall not be dismissed within sixty (60) days unless HPHC shall contest the validity of such action by appropriate proceedings taken in good faith within the sixty (60) day period; or

(v) The occurrence of any event, which with the passage of time or otherwise, would become an event of default under any other agreement, note, lease, mortgage or obligation to which HPHC is a party, unless any such event of default shall be timely cured under any applicable cure provision, but without regard to any waiver by any person of any event of default; or

2.6 Termination Upon Amendment of Service Fees. HPHC may terminate this Agreement in accordance with the provisions of section 1.5 of the Agreement.

2.7 Legal Requirements. In the event that any governmental agency determines that HPHC is operating in violation of any law or regulation or otherwise requests that HPHC cease operations for Purchaser, then this Agreement may be terminated by either party upon thirty (30) days written notice.

2.8 Duties on Termination. As of the effective date of termination pursuant to any provision of this Agreement, it shall be considered of no further force or effect, and each of the parties shall be relieved and discharged from this Agreement, and HPHC's agency shall be automatically revoked, provided, however, each party shall remain liable for any obligations or liabilities arising from activities carried on by such party or its agents, servants, or employees during the period (including any period covered above) this Agreement shall have been in effect. Termination shall not, at Purchaser's option, terminate the duties and obligations of the parties hereto for Members then being treated by Contracting Providers on an inpatient basis, including payment therefore, until the Member is discharged or for thirty (30) days, whichever is sooner. HPHC shall process and pay all eligible claims incurred during the term of this Agreement for a period up to twelve (12) months after termination of this Agreement.

III. MISCELLANEOUS

3.1 Amendments. Except as provided herein, this Agreement, or any part hereof, may be amended at any time by written consent of authorized representatives of both parties.

3.2 Waiver. No covenant, condition, duty, obligation, or undertaking contained in or made a part of this Agreement shall be waived except by the express written consent of the party giving such waiver granted in accordance with the provisions hereof, and forbearance or indulgence in any form or manner by either party in any regard whatsoever shall not constitute a waiver of the covenant, condition, duty, obligation, or undertaking to be kept, performed, or discharged by the party to which the same may apply.

3.3 Notice to Members. HPHC and Purchaser reserve the right to amend this Agreement or any provision hereof, to waive any rights granted to either party hereunder by mutual agreement, or to terminate the Agreement in any manner provided in any provision hereof without notice to or consent of any Member.

3.4 Third Party Rights. This Agreement is entered into by and between the parties hereto and for their benefit. Except as specifically provided herein, there is no intent by either party to create or establish third party beneficiary status or rights in any Member, subcontractor, or other third party to this Agreement, and no such third party shall have any right to enforce any right or enjoy any benefit created or established under this Agreement.

3.5 Assessments. Purchaser will pay HPHC within thirty (30) days after assessment any tax or charge assessed against HPHC which is incurred by reason of a change in, or imposition of, any charges imposed on HPHC by any public body, exclusive of Federal or State Income Taxes, which affect this Agreement. The final billing for the Massachusetts Uncompensated Care Pool surcharge and for charges incurred under the New York Health Care Reform Act will occur following the end of the run out period.

3.6 Limitations. In the event the operations of HPHC's facilities or any substantial portion thereof are interrupted by war, fire, insurrection, labor/provider contract troubles, millenium failures, riots, the elements, earthquakes or acts of God, the provisions of this Agreement (or such portions hereof as HPHC is thereby rendered incapable of performing) shall be suspended for the duration of such interruption. In the event that this Agreement, or any portion hereof, is suspended due to HPHC's inability to operate due to interruptions for reasons described above, Purchaser shall not be liable for any portion of the Service fee specified in Attachment C for those days during which HPHC was not able to perform all Services required under this Agreement.

In the event that Purchaser or its Designee is unable to perform its obligations and responsibilities due to war, fire, insurrection, labor contract troubles, riots, the elements, earthquakes or acts of God, the schedule of payments due from Purchaser and other administrative schedule requirements shall be delayed until operations can be resumed.

3.7 Arbitration. In the event of any dispute of any kind concerning this Agreement or the performance of obligations hereunder, said dispute shall be submitted to arbitration in accordance with the rules of the American Arbitration Association. Fees and all related costs of arbitration shall be borne equally by both parties. The parties agree to be bound by the results of such arbitration. The obligations of this provision shall survive termination of this Agreement.

3.8 Performance by HPHC. HPHC shall perform its obligations under this Agreement through, at its discretion, employees or arrangements or contracts with agents or independent contractors.

3.9 Successors and Assigns. The provisions of this Agreement and obligations arising hereunder shall extend to, be binding upon, and inure to the benefit of the executors, administrators, successors, and assigns of the parties hereto.

3.10 Assignment. Purchaser shall not assign its rights and obligations under this Agreement without the prior written consent of HPHC. HPHC may assign its respective rights and responsibilities under this Agreement to any entity which owns or controls HPHC, to any entity which is owned or controlled by HPHC, or to any entity which is under common ownership or control with HPHC and HPHC shall provide written notice to Purchaser within thirty (30) days of such assignment.

3.11 Headings. The headings of the various sections of the Agreement are inserted merely for the purpose of convenience and do not, expressly or by implication, limit, define or extend the specific terms of the section so designated.

3.12 Notice. Any notice required to be given pursuant to the terms and provisions of this Agreement shall be in writing and may either be personally delivered or sent by registered or certified mail by United States Postal Service, return receipt requested, postage prepaid, addressed to each party at the addresses which follow:

i) Purchaser:

Company Name:

City of Nashua

Care of: Risk Management Dept
Street: 229 Main Street
City/State/Zip: Nashua NH 03060

ii)HPHC:

The Office of General Counsel
Harvard Pilgrim Health Care, Inc.
93 Worcester Street
Wellesley, MA 02481

3.13 Entire Agreement. This Agreement (together with all attachments) contains the entire agreement between the parties relating to the rights granted and the obligations assumed by this Agreement. Any prior agreements, promises, negotiations, or representations relating to the subject matter of this Agreement not expressly set forth in this Agreement are of no force or effect.

3.14 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers, this 24 day of May, 2002.

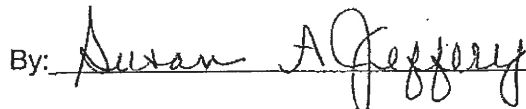
HARVARD PILGRIM HEALTH CARE, INC.

By:



CITY OF NASHUA

By:



ATTACHMENT B

CONTRACTING PROVIDER COMPENSATION PROVISIONS

For Covered Services provided by Contracting Providers in accordance with the terms and conditions of the Plan and the provisions of agreements through which HPHC has arranged for the provision of Covered Services to Members, Purchaser shall provide compensation in the amounts charged at the rate to which each Contracting Provider, or an entity acting on the Contracting Provider's behalf, has agreed with HPHC or HPHC's designee. Purchaser understands that HPHC has a variety of agreements with Contracting Providers relating to compensation arrangements for self-insured plans administered by HPHC. These arrangements include, but are not limited to, withholds, risk-sharing, vendor rebates/refunds, capitation, per diem payments, fee schedules and DRGs. These arrangements are for the sole benefit of HPHC and Purchaser shall have no interest in or claim on any of these arrangements, except to the extent that HPHC has determined, in accordance with its reimbursement practices and procedures relating to self-insured plans, to make such arrangements partially available to self-insured plans. Purchaser acknowledges and agrees that HPHC has not represented or guaranteed that Purchaser will receive the same reimbursements arrangement that would apply to HPHC's insured business. Claims paid under the Plan shall be determined and calculated on the basis of the foregoing rates of payment, for purposes of Attachment D. All payments to providers shall be subject to the applicable copayments and deductibles under the Plan.

Primary Care Providers, as defined in Attachment E, may be paid a monthly management Fee for each member enrolled in his or her practice in addition to compensation for Covered Services rendered. HPHC may amend the Management Fee by thirty-days advance written notice to Purchaser.

Contracting Providers shall accept the above compensation as payment in full for Covered Services, except for applicable copayments and coinsurance.

ATTACHMENT C

HPHC COMPENSATION PROVISIONS

Purchaser shall pay HPHC on the first day of each month a Service Fee described below. In return for this monthly Service Fee from Purchaser during the term of the Purchaser Service Agreement and for one (1) year thereafter, HPHC shall process and pay all eligible claims incurred during the term of the Agreement for a period up to twelve (12) months after termination of the Agreement. There will be periodic retroactive and prospective adjustments to such payments to reflect the actual number of covered contracts and prorated portions thereof. HPHC shall provide the Purchaser or its Designee with a monthly bill for administrative services. All HPHC administrative services are included in this Service Fee except as specifically excluded in paragraph 10 of Attachment A or as specifically provided in the Purchaser Service Agreement.

Administrative Fee Schedule

Product Name	Individual Contract	Dual Contract	Family Contract
EPO	\$27.50	\$55.00	\$74.25

ATTACHMENT D

FUNDING OF COVERED SERVICES

OVERVIEW: HPHC shall from time to time, generally at weekly intervals, issue payment to Contracting Providers for Covered Services. HPHC makes such payments from a master claims paying account. This Attachment describes the manner in which the Purchaser provides sufficient funds to HPHC to cover such payments. Purchaser understands that failure to make sufficient funds available in accordance with this Attachment shall cause HPHC to suspend further claims payments.

WEEKLY TRANSFER WITH PURCHASER AS ORIGINATOR: Purchaser has agreed to reimbursement through weekly wire transfer with Purchaser as the originator. HPHC will invoice Purchaser each week by Friday. Unless otherwise agreed, the invoice will be in the form of a fax. Each invoice will include all claims that were paid on Tuesday of that week from the HPHC master claims paying account. Purchaser shall wire the amount due to HPHC by the third business day following notification. This form of reimbursement requires that Purchaser make an initial working deposit equal to one half of a month's anticipated claims expense as calculated by HPHC. The working deposit shall be kept in a segregated sub-account specific to Purchaser maintained by HPHC at Citizens Bank. HPHC acts as the custodian of the sub-account. A "W-9 Form" must be filled out by Purchaser to establish the sub-account. Interest earned at the current bank interest rate will be added to the working deposit. Each plan year, HPHC will recalculate the working deposit required based on current utilization and membership.

MONTHLY STATEMENT: Each month, HPHC shall provide a statement to the Purchaser, which will include all claims paid and all payments received within the month. This report will include detailed reports that support the claims charges on the monthly billing statement.

DUTIES ON TERMINATION: Pursuant to section 3.8 of the Agreement, HPHC shall process and pay all eligible claims incurred during the term of this Agreement for a period up to twelve (12) months after termination of the Agreement, and Purchaser shall continue to provide funding for such claims payments in accordance with this Attachment.

ATTACHMENT LIST

Attachment A	Administrative Services
Attachment B	Contracting Provider Compensation Provisions
Attachment C	HPHC Compensation Provisions
Attachment D	Funding of Covered Services
Attachment E	Purchaser's Plan

ATTACHMENT A
ADMINISTRATIVE SERVICES

HPHC shall perform the following administrative services for Purchaser with respect to the Plan.

1. Financial Systems and Services. HPHC shall establish, administer and maintain accounting procedures and systems for the preparation of appropriate financial reports for the efficient management and planning for the Plan. The foregoing shall include, but not be limited to:

- (a) Not later than ninety (90) days prior to the beginning of each annual contract period, HPHC shall prepare and provide the Purchaser with an annual operating budget setting forth an estimate of the Plan's operating expenses for the contractual year which shall be in reasonable detail and shall contain an explanation of anticipated changes, if any, in utilization, claims paid, and other factors which may significantly affect the operating budget.
- (b) HPHC shall assist Purchaser on Purchaser's request in preparing and filing all financial reports required of Purchaser regarding the Plan by any federal, state or other agency or authority.
- (c) HPHC will provide the Purchaser monthly accounting statement, standard support reports, working fund billing services, and up to ten (10) hours per year of personnel support for audits. Comprehensive audits of claims data covering a multiple year period require a 45 day notice. HPHC will accommodate non standard report requests subject to available staffing capacity and will reserve the right to charge one hundred dollars (\$100) per hour for labor costs, and a set up fee of one hundred dollars (\$100.00) per hour for programming costs and seventy-five dollars (\$75.00) per hour for installation costs associated with each request. Audit support in excess of ten (10) hours per year will be charged at one hundred dollars (\$100) per hour for each request.

2. Claims Processing and Administration. Subject to the restrictions in Section 2(c) below, HPHC shall design, implement and maintain such systems and procedures as may be necessary for the appropriate adjudication and timely payment of all claims for payment submitted to Purchaser (including Member and provider claims) and to assure the availability of appropriate and accurate information for the administration of the Plan's programs. HPHC's services shall include, but not be limited to the following:

- (a) Drafting or specifying all documents, forms and records to be used by Contracting Providers for their claims of reimbursement and to be used by HPHC to reimburse them and also to develop procedures to be utilized in the adjudication of claims;
- (b) Evaluating and processing all claims for payment submitted to HPHC under the Plan. HPHC shall investigate reported health care claims in the manner and to the extent necessary and supervise a settlement of those health care claims and other demands that the Plan is legally obligated to pay; prepare checks or drafts drawn against the Purchaser's funds allocated to the Plan to settle such claims or demands; and maintain claim files for the Plan; and
- (c) Utilization and Peer Review. HPHC shall maintain systems, trained staff and procedures necessary or appropriate for the operation of a reasonable and appropriate utilization review and quality assurance program that meets generally accepted standard and which reviews services required under the Plan. Utilization/Case Management Services included but are not limited to: prior authorization, precertification, concurrent and retrospective utilization review, discharge planning, physician review of denials and appeals, specialty case management, and disease management programs.
- (d) In all cases, using its best efforts to advise Purchaser of any disputed health care claims by Members over which litigation has been commenced or threatened or which is reasonably likely to result in litigation, HPHC will follow its standard practices for resolving such claims. HPHC shall also refer to Purchaser any other health care claims where the facts available to HPHC do not provide adequate basis for resolution of the claim by HPHC and determination of the claim may involve the exercise of discretion. In all such disputed or unresolved cases, the ultimate authority to resolve such claims is expressly retained by Purchaser and Purchaser expressly retains the authority to make the ultimate decision with regard to such claims. Purchaser also retains the authority to decide whether an investigation of any disputed claim is to be conducted and, if so, the extent of that investigation.
- (e) HPHC will administer the grievance and appeals procedure for Members as described in Attachment E.

3. Benefits Administration. HPHC will appropriately administer the Purchaser's Benefit Option Code (BOC) as selected by the Purchaser. Any Level 1 or Level 2 benefit package not covered by an existing BOC will be charged a set up fee of one hundred dollars (\$100.00) per hour for programming costs and seventy-five dollars (\$75.00) per hour for installation costs associated with each request

4. Contracting Provider and Member Service Records. HPHC shall design, implement and maintain the following services related to Contracting Provider and Member services and records:

- (a) HPHC shall assist Purchaser in preparing and distributing to Members appropriate Member identification cards, instructional brochures, booklets, announcements, and disclosure statements as may be reasonably necessary and/or required by law, to assure the availability of accurate and appropriate information regarding the health care services to be provided and the administration and operations of the Plan's programs. Upon request of the Purchaser, customized member materials will be charged to the Purchaser at cost.
- (b) HPHC shall develop and provide information for distribution to Contracting Providers as may be reasonably necessary and/or required by law to fully describe billing procedures, payment for services, and the schedule of Covered Services. Such costs, as well as all costs associated with the development and maintenance of a network that meets Purchaser's requirements as specified herein shall be borne by HPHC.
- (c) HPHC shall develop and maintain Member and provider files to permit eligibility verification, rate and provider compensation computations, claims adjudication and efficient and timely response to inquiries from Members and providers. HPHC shall be responsible for informing Members in a timely fashion of the lapse or termination of their eligibility to receive Covered Services. In accordance with Section 2.6 and 2.7 of the Purchaser Service Agreement, HPHC may rely on information regarding the eligibility of Members provided by Purchaser.
- (d) HPHC shall provide to the Purchaser a monthly administration bill with membership roster. HPHC will accommodate billing reconciliation requests subject to available staffing capacity and will reserve the right to charge one hundred dollars (\$100) per hour for labor costs.

5. Information Systems. HPHC shall employ an information system appropriate for the purposes of claims processing, provider compensation computation, utilization review, quality assessment, eligibility of Members, billing and making required reports to regulatory agencies. HPHC shall bear all reasonable costs associated with the acquisition and maintenance of the information system, including purchase or lease of equipment, hardware and software development, installation, maintenance and modification, and computer time-sharing and all personnel costs. The system, including all software programs related thereto, shall be proprietary to HPHC or its contractor.

6. Reports.

- (a) HPHC shall assist Purchaser, upon Purchaser's request, in providing such reports as may be required by any regulatory agency having jurisdiction over the operations of the Plan including, to the extent applicable, the U.S. Department of Labor (including Form 5500 and Summary Annual Report), the Internal Revenue Service, and state governmental agencies. HPHC shall, upon Purchaser's request, comply on Purchaser's behalf, with the New York Health Care Reform Act reporting requirements.
- (b) HPHC shall report, at Purchaser's request, concerning the activities of the Plan as shall be reasonably necessary for Purchaser, its officers and directors, to fulfill their corporate or governmental responsibilities.
- (c) HPHC shall provide reports to Purchaser, upon Purchaser's request on a schedule as indicated below:
- (d) HPHC will provide reinsurance notifications and filings as outlined in the HPHC Reinsurance Guidelines to the reinsurance carrier as noted in the Purchaser's Stop Loss Policy (Attachment G). HPHC will accommodate non standard requests subject to available capacity and will reserve the right to charge one hundred dollars (\$100.00) per hour for labor costs and a set up fee of one hundred dollars (\$100) per hour for programming costs and seventy-five dollars (\$75.00) per hour for installation costs associated with each request.

Monthly

- (a) A monthly paid claims report including member identification number, incurred date or date of service, service paid date/month, type of claims (hospital, medical or drug), type of service description, provider number, total amount paid. All claims, including prescription drug claims, shall be included. This report shall be provided in an accepted electronic media format to the Purchaser or its Designee, which acceptance shall not be unreasonably withheld.

Quarterly

- (a) On a quarterly basis or when reasonably requested by Purchaser, HPHC shall furnish Purchaser with reports regarding the utilization and cost of health services and supplies rendered to Members by providers of these services. Such reports shall include, but not be limited to, eligibility data and information regarding the types and costs of services rendered and the frequency with which each type of service was performed. HPHC will accommodate non standard requests subject to available staffing capacity and will reserve the right to charge one hundred dollars (\$100) per hour for labor costs

and a set up fee of one hundred dollars (\$100.00) for programming costs and seventy-five dollars (\$75.00) per hour for installation costs associated with each request.

- (b) A quarterly report of enrollment status and activity by individual and family subscriber, by group (may be provided in the form of a monthly invoice for administration fees).

Annually

- (a) At least sixty (60) days prior to renewal, HPHC shall present to Purchaser or its Designee a renewal package that contains: (a) a detailed claims projection by plan type for the next policy period and (b) proposed fully incurred administrative fees. Any affect of the renewal package on the Funding of Covered Services (see Attachment D) will be communicated to Purchaser or its Designee after Purchaser's annual open enrollment period.

7. Government Regulation. HPHC shall use reasonable efforts, within the scope of its authority and responsibilities hereunder, to ensure that the Plan complies with the requirements of any applicable state or federal statute, ordinance, law, rule, regulation, or order of any governmental or regulatory body having jurisdiction over the Plan. The Plan itself, however, is responsible for compliance with all applicable laws.

8. Deposit and Disbursement of Funds.

- (a) HPHC shall maintain an accounting of all monies received from Purchaser or otherwise arising from the operation of the Plan and shall make disbursements on behalf of the Plan in such amounts and at such times as the same are required. HPHC shall maintain and retain records clearly reflecting all transactions made for the Plan and shall furnish such records to Purchaser, at Purchaser's request.
- (b) HPHC shall serve as Purchaser's true and lawful attorney-in-fact to bill and collect such amounts as may be payable to the Purchaser for the Plan; to collect in the Purchaser's name accounts receivable generated by such billing; and to take possession of and endorse in Purchaser's name any cash, notes, checks, money orders, insurance payments, and any other instruments received in payment.
- (c) Upon termination of this Agreement, HPHC will continue to pay claims (not including taxes or other governmental obligations as described in section 10(c) below) incurred through the effective date of termination, for a period not to exceed twelve (12) months (the "run-out period") on the condition that Purchaser continue to provide funding for such claims payments in the same manner as is required during the contract period. HPHC may charge interest in the amount of fifteen percent (15%) annually on amounts which

Purchaser fails to pay within fifteen (15) days of the due date. Within thirty (30) days after the run-out period ends, HPHC will return the remainder of the balance of the Plan Working Deposit to Purchaser. HPHC will subsequently request instruction from Purchaser as to how future additional payable claims, if any, should be paid. Due to the nature of the data on which the Massachusetts Uncompensated Care Pool surcharge amounts are calculated, the final billing for this charge will take place following the end of the run out period. Similarly, the final billing for charges incurred under the New York Health Care Reform Act will occur following the run out period.

10. Excluded Expenses and Services. Expenses incurred by the Plan, or by HPHC on behalf of the Plan, for the following services shall be the sole responsibility of Purchaser:

- (a) All direct and indirect costs for the providers and suppliers in connection with the delivery of health care services and supplies to Members, including all compensation and reimbursement paid to medical and paramedical personnel and health care facilities;
- (b) All insurance costs, including professional liability/malpractice, general liability and all reinsurance and stop-loss, which may be purchased for Purchaser or the Plan;
- (c) Taxes or other governmental obligations of the Plan or Purchaser, including without limitation, surcharges assessed on payments to health care providers for the funding of uncompensated care pools or similar arrangements.
- (d) Purchaser's annual corporate financial audit, and such other audits and financial statements required by state or federal law and costs associated with preparation of Purchaser's corporate tax returns.
- (e) Costs of legal services for the Plan which arise in the normal course of the Plan's operations, including HPHC's provision of services for the Plan, except as otherwise provided in section 1.13 of the Purchaser Service Agreement.
- (f) Filing fees and penalties and other fees associated with annual and other reports required by federal and state statutes and regulations applicable to the Plan; and
- (g) Expenses for independent legal, independent accounting and independent actuarial services of Purchaser or the Plan.

RATE PROPOSAL

Company Name: City of Nashua
Group Number: 027219
Product: NH HMO-Best Buy Plan Year Stand Alone Option

Effective Date: 07/01/2016 - 06/30/2017
Plan ID : MD0000014789/RX0000011897

RATES AND FEES	INDIVIDUAL	DUAL	FAMILY
Claims Level Rate - Base	\$0	\$0	\$0
Claims Level Rate - Rx	\$0	\$0	\$0
Claims Level Rate - Total	\$0	\$0	\$0
Admin - Core Services Fee	\$65.14	\$65.14	\$65.14
Admin - Base Fee	\$65.14	\$65.14	\$65.14
Admin - Broker Fee	\$2.42	\$2.42	\$2.42
Admin - Total Fee	\$67.56	\$67.56	\$67.56
Subtotal: Admin & Reinsurance Fees	\$67.56	\$67.56	\$67.56
CAR Total (Claims & Admin & Reinsurance)	\$67.56	\$67.56	\$67.56

PURCHASED OPTION *	FEES
Fitness Club Reimbursement Program	\$0.00 PEPM Flat Fee
Fitness Reimbursement Max	\$150.00 PSPCY Level

BENEFITS SUMMARY	(Refer to the Schedule of Benefits for benefit details)
Office Visit	\$20
Emergency Room	\$100
Inpatient Services	DED
Day Surgery	DED
Coinsurance In-Network	None
Coinsurance Out of Network	NA
Deductible In-Network Individual	\$250 PPY
Deductible Out of Network Individual	NA
Deductible In-Network Family	\$500 PPY
Deductible Out of Network Family	NA
Out of Pocket Maximum In-Network Individual	\$6,450 PPY
Out of Pocket Maximum Out of Network Individual	NA
Out of Pocket Maximum In-Network Family	\$12,900 PPY
Out of Pocket Maximum Out of Network Family	NA
Chiropractic Care	12 visits PPY
Rx Copay 30 Days	\$5/\$15/\$35/NA/NA
Rx Copay Mail Order	\$5/\$30/\$70/NA/NA
Cross Accumulation	Cross Accumulated
Rx Copay Deductible	N/A
OOP Max Individual Rx	\$6450
OOP Max Family Rx	\$12900
Formulary	Premium

* In the event that you purchase or have purchased a specialty care and disease management program, please note that specialty care and disease management program Service Fees must be paid for minimum one-year periods and no retroactive termination of members is permitted.

*Deductibles and Out of Pocket Maximums are Per Calendar Year (PCY) unless otherwise indicated to be Per Plan Year (PPY)

Max OOP=Maximum Out of Pocket, Chiro=Chiropractic Rider, Rx=Prescription, PCY=Per Calendar Year, OV=Office Visit, IN=In Network, OON=Out of Network, ER=Emergency Room, PMPM=Per Member Per Month, PEPM=Per Employee Per Month, PDMPM=Per Diseased Member Per Month, PSPCY=Per Subscriber Per Calendar Year

RATE PROPOSAL

Company Name: City of Nashua
Group Number: 027219
Product: NH HMO-Best Buy Plan Year Stand Alone Option

Effective Date: 07/01/2016 - 06/30/2017
Plan ID : MD0000014789/RX0000011897

Rate Proposal terms and conditions

1. If applicable, please review the detailed caveats page(s) released by the Stop-loss Carrier.
2. Preferred Drug List Rebates - Harvard Pilgrim Health Care will retain 30% of any net preferred drug list rebate recovery attributable to prescription drug products utilized by participants.
3. The customer will retain 70% of that rebate recovery amount.
4. These figures are approximate based upon 315 subscribers.
5. You may request a fully insured quote, which could provide greater savings (e.g., reduced HIPAA compliance, avoidance of stop loss volatility and enhanced discounts reflected in fully insured rates).

I am authorizing Harvard Pilgrim Health Care (including its affiliates) to proceed with the account setup of the benefit package and fees in this rate proposal, which is subject to the execution of Harvard Pilgrim's Administrative Service Agreement (ASA) or an applicable amendment to the ASA.



AMENDMENT TO GROUP POLICY GL-207759 PROCESSED ON FEBRUARY 24, 2015. ANY CHANGES BETWEEN THIS POLICY AND THE PREVIOUSLY ISSUED POLICY ARE EFFECTIVE FEBRUARY 1, 2015. ALL OTHER TERMS, CONDITIONS AND DATES REMAIN UNCHANGED.

Name of Policyholder: CITY OF NASHUA, NEW HAMPSHIRE

Policy Number:
GL-207759

Effective Date:
January 1, 1997

Place of Delivery:
New Hampshire

Anniversary Dates:
January 1 of each year, beginning in 2016.

Premium Due Dates:
Monthly, on the first day of each policy month.

HARTFORD LIFE AND ACCIDENT INSURANCE COMPANY
200 Hopmeadow Street, Simsbury, Connecticut 06089

(A stock insurance company, herein called Hartford Life)

Agrees with the Policyholder to insure certain persons who are entitled to the insurance provided by this policy. This policy is issued in consideration of the application of the Policyholder, and the payment of the first premium. The first premium is due and payable on the effective date of the policy. Subject to the policy's grace period provision, all premiums after the first must be paid when or before they are due.

Signed for Hartford Life:

Terence Shields, *Secretary*

Michael Concannon, *Executive Vice President*

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PARTICIPANT EMPLOYERS

An employer may be included as a Participant Employer if the Policyholder and Hartford Life so agree. Hartford Life will keep a list of accepted Participant Employers and the effective dates of coverage for each.

The Policyholder may act for or on behalf of all Participant Employers in all matters of the policy. The following will be binding on all Participant Employers:

- all agreements between Hartford Life and the Policyholder;
- all notices from Hartford Life to the Policyholder; and
- all notices from the Policyholder to Hartford Life.

An employee of a Participant Employer will be deemed to be an employee of the Policyholder for insurance purposes.

Coverage for a Participant Employer will terminate on the first to occur of:

- the date his premium is due, but not paid; or
- the date on which the Policyholder wants the employer to be removed from the policy. Such date must be stated in written notice to Hartford Life, and must be after the date of the notice.

INCORPORATION PROVISION

Booklet-Certificate

The Booklet-certificate(s), and the endorsement form(s) enclosed therein, attached to this Policy are hereby incorporated in, and made a part of, this policy.

Booklet Form(s):

207759(GL)1.18
207759(GL)10.4
207759(GL)11.3
207759(GL)12.3
207759(GL)13.3
207759(GL)14.3
207759(GL)15.3
207759(GL)16.3
207759(GL)17.3
207759(GL)18.3
207759(GL)19.3
207759(GL)20.2
207759(GL)21.3
207759(GL)22.2
207759(GL)23.2
207759(GL)24.2
207759(GL)4.17
207759(GL)5.12
207759(GL)6.5
207759(GL)7.3
207759(GL)8.3
207759(GL)9.3

The terms found in the Booklet-certificate(s) will control:

- the benefit plan provisions;
- the eligibility and effective date of insurance rules;
- the termination of insurance rules;
- exclusions; and
- other general policy provisions pertaining to state insurance law requirements.

SCHEDULE OF INSURANCE

Schedule of Insurance

The Schedule(s) of Insurance for Group Insurance Policy GL-207759 listed below:

- Basic Life Insurance
- Accidental Death, Dismemberment and Loss of Sight Benefit
- Supplemental Life Insurance

are shown in Booklet-certificate(s) 207759(GL)4.17, 207759(GL)5.12, 207759(GL)6.5, 207759(GL)7.3, 207759(GL)8.3, 207759(GL)9.3, 207759(GL)10.4, 207759(GL)11.3, 207759(GL)12.3, 207759(GL)13.3, 207759(GL)14.3, 207759(GL)15.3, 207759(GL)16.3, 207759(GL)17.3, 207759(GL)18.3, 207759(GL)19.3, 207759(GL)20.2, 207759(GL)21.3, 207759(GL)22.2, 207759(GL)23.2, 207759(GL)24.2 and 207759(GL)1.18.

The Schedule(s) of Insurance will control the:

- benefit amounts and maximum limits;
- eligibility and effective date rules; and
- other schedule amounts and limits,

which apply to the employees of the Policyholder.

PREMIUMS

Initial Monthly Premium Rates

The initial monthly premium rates to be charged for employee Coverage and/or child/spouse coverage, if applicable, will be:

Basic Life Insurance

\$.113 for each \$1,000 of Group Life Insurance

Supplemental Life Insurance

\$ for each \$1,000 of Supplemental Life Insurance
the monthly premium rate shall be determined in
accordance with the Insured Person's Age as follows:

Employee Age	Rate
Less than 30	\$.065
30-35	\$.07
35-40	\$.082
40-45	\$.135
45-50	\$.165
50-55	\$.386
55-60	\$.61
60-65	\$.937
65-70	\$1.436
70-75	\$3.007
75 or over	\$4.192

Accidental Death, Dismemberment And Loss of Sight Insurance

\$.03 for each \$1,000 of Maximum Benefit

The Initial Monthly Premium Rates may be converted as follows:

To Convert Rates to:	Use a Conversion Factor of:
-- annual rates	11.8227
-- semi-annual rates	5.9557
-- quarterly rates	2.9852

PREMIUMS
(Continued)

Change in Monthly Premium Rates

Initial Monthly Premium rates are guaranteed as follows:

<u>Basic Life Insurance</u>	until 36 months
<u>Supplemental Life Insurance</u>	until 36 months
<u>Accidental Death, Dismemberment, and Loss of Sight Insurance</u>	until 36 months

Subject to the Rate Guarantee period shown above, Hartford Life has the right to change premium rates on any premium due date if:

- written notice is delivered to the Policyholder's last address on record; and
- the change is effective at least 31 days after the date of notice.

The rate guarantee described above (the "Rate Guarantee") supersedes only those provisions appearing elsewhere in this policy which give Hartford Life the right to change the premium rates, and then, only for the period of time stated for the Rate Guarantee. However, Hartford Life may change the premium rates during the Rate Guarantee period if there is a change in the group policy, or if there is a 10% increase or decrease in the number of insured employees, or if the Policyholder adds or deletes a subsidiary or affiliated business entity. Hartford Life may also change the premium rates during the Guarantee Period if there has been a material misstatement in the reported experience during the pre-sale process. The Rate Guarantee in no way affects, amends or supersedes any other provision in this policy.

Calculation

Premiums may be calculated by multiplying the rate times the applicable number of units of coverage.

If any insurance is added, increased or becomes effective after the policy is in force, the premium charges will begin:

- the day the coverage is effective, if it is also the first day of a policy month; or if not
- the first day of the next policy month.

For insurance which is terminated, premium charges will stop as of the first day of the next policy month.

Premiums may be calculated by any other method which both Hartford Life and the Policyholder agree to in writing.

PREMIUMS
(Continued)

Premium Payments

Premium payments are due and payable in full to a place designated by Hartford Life or, with respect to the initial premium payment, premium payments may be made to an authorized agent of Hartford Life.

Payment of premiums for a period before it is due will not guarantee the insurance for that period.

Experience Rating

If the policy is experience rated, any credit amount due the Policyholder will be allowed him on the Policy Anniversary Date and, at the Policyholder's request, will be:

- paid to him in cash;
- used to reduce his premiums; or
- used to provide additional insurance for Covered Persons.

Any credit amount shall be determined by the rating plan or plans used by Hartford Life.

POLICY PROVISIONS

Entire Contract

The contract between the parties consists of:

- the policy;
- the application of the Policyholder, a copy of which is attached to and made a part of the policy when issued; and
- the applications, if any, of each insured person.

All statements made by the Policyholder, Participant Employers, and persons insured under the policy are true and complete to the best of the knowledge and belief of the person(s) making them. No statement will be used in any contest unless it is in writing and a copy of it is given to the person who made it, or to his beneficiary.

Incontestability

Except for non-payment of premium, the insurance provided by the policy cannot be contested after such insurance has been in effect for a period of 2 years.

Change in The Policy

No change may be made unless approved in writing by the President; or a Vice President; an Assistant Vice President; a Secretary; or an Assistant Secretary of Hartford Life. No other person may change or waive any part of the policy. Any approved change shall be added to the policy in writing.

If any change to state or federal law, including but not limited to the Federal Social Security Act, affects Hartford Life's liability under the policy, Hartford Life may change the policy, the premiums or both. Such change:

- will be effective as of the date of the change to the state or federal law;
- will not be made until Hartford Life gives the Policyholder 31 days notice.

Right to Amend

Notwithstanding the above, after the policy has been in force for 12 months, Hartford Life may change any or all of the provisions of this contract by notifying the Policyholder. Hartford Life must give the Policyholder at least 31 days advance written notice of any change.

Grace Period

Hartford Life will allow the Policyholder a 31 day grace period for the payment of all premiums after the first. During this 31 day period, the policy will stay in force. If the owed premium is not paid by the 31st day, the policy will automatically terminate. If the Policyholder gives Hartford Life written advance notice of an earlier cancellation date, the policy will terminate on the earlier date. Premium is due for each day the policy is in force.

POLICY PROVISIONS

(Continued)

Termination of Policy

Hartford Life may terminate the policy for the following reasons by giving the Policyholder 45 days written notice:

- The Policyholder fails to furnish any information which Hartford Life may reasonably require;
- The Policyholder fails to perform any of his other obligations pertaining to this policy;
- Less than 100% of the persons eligible for coverage on a Non-contributory Basis are insured; or
- Less than 75% of the persons eligible for coverage on a Contributory Basis are insured.
- Fewer than 10 persons are insured.

In addition, Hartford Life may terminate this policy on any premium due date after the policy has been in force for 12 months.

Certificate

Hartford Life will give the Policyholder an individual Booklet-certificate for each insured employee. The Booklet-certificate is part of the policy, and will explain the important features of the policy.

Data To Be Furnished

The Policyholder will give Hartford Life all information Hartford Life needs regarding matters pertaining to the insurance. At any reasonable time while the policy is in force and for 1 year after that, Hartford Life may inspect any of the Policyholder's documents, books, or records which may affect the insurance or premiums of this policy.

If the Policyholder gives Hartford Life any incorrect information, the relevant facts will be determined to establish if insurance is in effect and in what amount.

No person will be deprived of insurance to which he is otherwise entitled or have insurance to which he is not entitled, because of any misstatement of fact by the Policyholder. Any required adjustment may be made in premiums or benefits.

No Replacement for Workers' Compensation

The policy does not replace Workers' Compensation or affect any requirement for Workers' Compensation coverage.

Time Period

All periods begin and end at 12:01 A.M., standard time, at the Policyholder's address.

Jurisdiction

This policy is governed by the laws of the state where it is delivered.



March 10, 2016

Tom De Lacey
Workplace Benefit Solutions/HUB International New England
1667 Elm Street, Suite 3
Manchester, NH 03101

Re: July 1, 2017 Group Benefits Renewal Information for City of Nashua, New Hampshire

Dear Tom:

We appreciate the opportunity to be your partner in delivering group benefits from The Hartford¹ to **City of Nashua, New Hampshire** and their employees. We look forward to renewing their Life benefits at this time and continuing our partnership for many years to come.

The attached letter contains renewal information for you to share with your client. **It is very important that you deliver the attached information to City of Nashua, New Hampshire in order to ensure that we can provide timely and accurate service to your client. Please note – this renewal information has not been sent to your client.**

I look forward to continuing this valuable partnership with you, and delivering on promises every day. I am happy to answer any questions you may have, so please contact me anytime.

Sincerely,

Paul Bogdanovich
Account Executive, Group Benefits
The Hartford

March 10, 2016

Larry Budreau
City of Nashua, New Hampshire
229 Main Street
Nashua, NH 03061-2019

Re: July 1, 2017 Renewal Information for Your Group Benefits with The Hartford

Dear Larry Budreau:

Thank you for giving The Hartford the opportunity to provide benefits to the employees of City of Nashua, New Hampshire. The Hartford is committed to enhancing your employees' financial security and helping you provide attractive benefits. We look forward to renewing the Life and Disability benefits at this time and continuing our relationship for many years to come.

To determine the renewal rate, The Hartford analyzes a variety of factors to ensure that you receive excellent benefits and valuable service at a competitive and affordable price. A careful review is conducted of your demographic information, industry classifications, experience results, and overall benefit package.

We have completed a comprehensive review of your benefit plan in order to determine the appropriate funding level for the upcoming new policy period, beginning July 1, 2017. The chart below summarizes the detailed renewal rate information. These renewal rates require that all coverage lines are renewed as a package.

Coverage and Policy Number	Volume	Current Rate	* Current Monthly Premium	Renewal Rate as of 01/01/2017	* Renewal Monthly Premium	Monthly Premium Change	Rate Guaranteed Until
Basic Life - 207759G	113,337,500	\$ 0.15 per 1000	\$ 17,000.62	No Change	No Change	\$ 0	07/01/2019
Basic ADD - 207759G	113,337,500	\$ 0.03 per 1000	\$ 3,400.13	No Change	No Change	\$ 0	07/01/2019
Supplemental AD&D	46,258,000	\$ 0.035 per 1000	\$1,619.03	No Change	No Change	\$ 0	07/01/2019

The Hartford® is The Hartford Financial Services Group, Inc. and its subsidiaries including issuing companies Hartford Life Insurance Company, Hartford Life and Accident Insurance Company and Hartford Fire Insurance Company. Administrative services are provided by the Hartford-Comprehensive Employee Benefit Service Company. In MI, NH, NM, NC, and WY, administrative services are provided by Hartford Life and Accident Insurance Company. Home Office is Hartford, CT. Renewals 2015.

Supplemental life - 207759		Renewal Rate as of 01/01/2017	Rate Guaranteed Until
SUPP LIFE < 30		\$ 0.0580 per 1000	07/01/2019
SUPP LIFE 30 - 34		\$ 0.0630 per 1000	07/01/2019
SUPP LIFE 35 - 39		\$ 0.0730 per 1000	07/01/2019
SUPP LIFE 40 - 44		\$ 0.1210 per 1000	07/01/2019
SUPP LIFE 45 - 49		\$ 0.1480 per 1000	07/01/2019
SUPP LIFE 50 - 54		\$ 0.3470 per 1000	07/01/2019
SUPP LIFE 55 - 59		\$ 0.5490 per 1000	07/01/2019
SUPP LIFE 60 - 64		\$ 0.8430 per 1000	07/01/2019
SUPP LIFE 65 - 69		\$ 1.2920 per 1000	07/01/2019
SUPP LIFE 70 - 74		\$ 2.7060 per 1000	07/01/2019
SUPP LIFE 75 - AND OVER		\$ 3.7720 per 1000	07/01/2019

* For policies that are list-billed by The Hartford, premium and volumes are based on the most recent list bill. For policies that are self-administered, premiums and volumes are based on the most recent census information that we have on file.



Doing business with The Hartford is about much more than price. We deliver on our promises every day through product features and responsive service targeted to you and your employees' unique needs.

MyTomorrow®: Help Them Protect What They Earn

Educating employees is key to empowering them. That's especially true when they're enrolling for benefits. Now there's a fun, interactive way to get them up to speed: MyTomorrow®. It helps employees understand how their benefits work so they can take wise steps to help protect their income from the unexpected. The Hartford creates MyTomorrow® sites customized for your company. We can tailor your landing page to display key enrollment content such as company logo, benefit highlights, enrollment information, access to enrollment forms or an online enrollment site, contact information, and other benefits information. Once it's linked to your benefits Web site through a unique URL or distributed by an email blast to employees, MyTomorrow® can be accessed securely from home as well as work. This friendly, online environment can help clarify what the benefits you are providing cover, address the affordability of these products and some common misconceptions, offer them access to your company's plan details and enrollment form/site, and more. Income protection can be a complex issue. But with MyTomorrow®, your employees will have a convenient tool to help them make good decisions.

Additional Services for Employees

There are some life conversations that no one wants to have - especially when it involves planning for financial matters, insurance needs, making end-of-life decisions or planning for the loss of a loved one. That's why many of The Hartford's group benefits products include various value-added services, designed to help employees with the challenges that come before and after a claim. Services include:

- **Beneficiary Assist® Counseling Services.**¹ (Life and Accident) Compassionate expertise to help employees or their loved ones cope with emotional, financial and legal issues that arise after a loss. Includes unlimited phone contact with professionals, as well as five face-to-face sessions.
- **Travel Assistance & ID Theft Protection Services.**² (Life, Accident & Long-term Disability) Services include pre-trip information that helps employees feel safe and secure while traveling. It

¹ EstateGuidance, Ability Assist® and Beneficiary Assist are offered through The Hartford by ComPsych®. ComPsych is not affiliated with The Hartford and is not a provider of insurance services. The Hartford is not responsible and assumes no liability for the services provided by ComPsych and reserves the right to discontinue these services at any time. EstateGuidance and ComPsych are registered trademarks of ComPsych Corporation.

² Travel Assistance and ID Theft Protection Services are provided by Europ Assistance USA. Europ Assistance USA is not affiliated with The Hartford and is not a provider of Insurance services. Europ Assistance USA may modify or terminate all or any part of this service at any time without notice. The Hartford is not responsible and assumes no liability for the services provided and reserves the right to discontinue these services at any time.

also gives them access to medical professionals across the globe for medical assistance when traveling 100+ miles away from home for 90 days or less when unexpected detours arise. Another important service is ID theft protection, available 24/7 whether home or away. Protection assistance is provided two ways: Educational materials to help prevent identity theft and access to caseworkers who can help victims resolve problems that result from identity theft.

- **Ability Assist® Counseling Services.** ¹ (Long-term Disability) Employees enrolled in our Long-term Disability plan receive professional counseling for financial, legal and emotional issues, 24/7/365. Service includes unlimited phone access and three face-to-face EAP sessions per person, per occurrence, per year. Services are also available to spouses and dependent children. Some plans provide access to benefits from day one (for employers with less than 5,000 employees) while others are available when an LTD claim is approved by The Hartford (for employers with 5,000 or more employees). If you would like confirmation of which level of service your plan would include, please contact your Hartford Account Manager.
- **Employer View®** - The Hartford's online Employer solution provides important tools and resources available 24/7 for your convenience – at no additional cost.

For more information on these value-added services, visit us online at www.thehartford.com/employee-group-benefits.

The Hartford is dedicated to providing responsive customer service to you and your employees. We regularly conduct surveys with producers, employers, and claimants to monitor satisfaction with The Hartford's group life and disability plans. Results from these studies show how well we meet customers' needs and ensure that we continue to deliver the right products and services.

Sincerely,

Paul Bogdanovich
Account Executive, Group Benefits
The Hartford
cc: Workplace Benefit Solutions/HUB International New England



THE CITY OF NASHUA

Financial Services

Purchasing Department

"The Gate City"

April 28, 2016
Memo #16-136

TO: MAYOR DONCHESS
FINANCE COMMITTEE

SUBJECT: LED STREET LIGHT CONVERSION PROJECT (VALUE: \$1,455,694)
DEPARTMENT: 161 STREET; FUND: BOND
ACTIVITY: LED LIGHTING

Please see the attached communication from Stephen Dookran, P.E., City Engineer for the information related to this purchase.

Pursuant to **§ 5-78 Major purchases (greater than \$10,000)** A. All supplies and contractual services, except as otherwise provided herein, when the estimated cost thereof shall exceed \$10,000 shall be purchased by formal, written contract from the lowest responsible bidder, after due notice inviting bids.

The City Engineer and the Purchasing Department recommend the award of this contract in an amount of \$1,455,694 to **Siemens Industry, Inc. of Austin, TX**. This award is contingent upon BPW approval at their next meeting scheduled for 5/5/16.

Respectfully,

Dan Kookan
Purchasing Manager

Cc: S Dookran L Fauteux

City of Nashua, Public Works Division

To: Board of Public Works Meeting Date: May 5, 2016

From: Stephen Dookran, P.E., City Engineer
Engineering Department

Re: LED Street Lighting Conversion Project

F. Motion: To approve the construction contract for the LED Street Lighting Conversion project with Siemens Industry, Inc. of Austin, TX in an amount of \$1,455,694. Funding will be through Department 161 Street; Fund: Bond; Activity: LED Lighting

Discussion: The LED Street Lighting Conversion project consists of replacing approximately 5,500 existing High Pressure Sodium (HPS) street lights with Light Emitting Diode (LED) street lights. Work includes a street light audit of all existing fixtures to provide the City and Eversource with an updated inventory, a trial period of 300K LED products versus 4000K LED products, and weekly reports to be submitted in order to revise the rate schedule for the newly installed LED lights.

The project was advertised on February 4, 2016. A mandatory prebid meeting was held on February 23, 2016 and twenty firms were represented. Nine firms submitted bids on March 11, 2016. Two of the firms were disqualified as non-responsive. The remaining bids are as follows:

Firm	Base Proposal	Base Proposal with Control System
Siemens	\$1,455,694	\$2,083,936
Tanko Lighting	\$1,582,341	\$2,308,674
Utility Service & Assistance	\$1,671,288	\$2,295,840
The Efficiency Network	\$1,842,376	\$2,467,452
PowerSecure	\$2,035,586	\$2,732,116
Elecnor Hawkeye	\$2,174,971	N/A

The bids were tabulated and reviewed and it is recommended that the contract be awarded to Siemens Industry, Inc. of Austin, TX as the qualified, low bidder. Their references were checked and they received favorable recommendations from the communities of Manchester, NH, Salem, MA and New Bedford, MA where Siemens has recently completed projects of a similar nature.



STANDARD FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR

This agreement is made:

BETWEEN the OWNER: **City of Nashua, New Hampshire**
229 Main Street
Nashua, NH 03060

And the CONTRACTOR: **Siemens Industry, Inc. Intelligent Traffic Systems**
9225 Bee Cave Road
Building B, Suite 101
Austin, TX 78733

and its successors, transferees and assignees (together
"CONTRACTOR")

For the following Project: **LED Street Lighting Conversion Project**
RFP0609-031116

ARTICLE 1 – THE CONTRACT DOCUMENTS

The CONTRACTOR shall complete the work described in the Contract Documents for this project. The documents consist of:

1. This Agreement signed by the OWNER and CONTRACTOR, including the General Terms and Conditions;
2. Scope of Work;
3. Drawings and Specifications provided in the bid documents;
4. Change Order Form;
5. Insurance Certificate;
6. Written change orders for minor changes in the Work issued after execution of this Agreement; and
7. Fully Executed OWNER Purchase Order

The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, proposals, representations or agreements, either written or oral. Any other documents which are not listed in this Article are not part of the Contract.

In the event of a conflict between the terms of the Proposals and the terms of this Agreement, a written change order and/or fully executed Owner Purchase Order, the terms of this Agreement, the

written change order or the fully executed Owner Purchase Order shall control over the terms of the Proposals

ARTICLE 2 – PERIOD OF PERFORMANCE

The CONTRACTOR shall perform and complete all work within the time periods set forth. The time periods may only be altered by the parties by a written agreement to extend the period of performance or by termination in accordance with the terms of the contract. The CONTRACTOR shall begin performance upon receipt of an **Executed Contract**, a valid **Purchase Order** issued from the OWNER, and a **Notice to Proceed**.

ARTICLE 3 - CONTRACT TIMES

3.01 Time of the Essence

All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

3.02 Date of Final Completion

The Work will be completed within 180 Calendar Days from Notice to Proceed.

3.03 Liquidated Damages

If CONTRACTOR breaches their obligation to install product within 180 calendar days of Notice to Proceed, CONTRACTOR shall pay OWNER \$0.20 per calendar day per fixture for each day of delay as liquidated damages. Should CONTRACTOR fail to make such payment, the OWNER may reduce further applications for payment on a dollar for dollar basis commensurate with damages incurred to date. Liquidated damages shall be capped at \$400,000.

The parties agree that quantifying losses arising from CONTRACTOR's delay in inherently difficult, and further stipulate that the agreed upon sum is not a penalty, but rather a reasonable measure of damages, based upon the parties' knowledge of anticipated savings resulting from fixture conversion.

This provision shall apply in the event of concurrent delay or delay caused by a third party.

Furthermore, should CONTRACTOR complete installation of product sooner than 150 calendar days from date of Notice to Proceed, they will be entitled to an early completion bonus equal to \$0.10 per calendar day per fixture for every day between the completion date and 180 calendar days from date of Notice to Proceed. Such bonus will be recognized via change order executed by both parties.

ARTICLE 4 – CONTRACT SUM

Subject to additions and deductions by Change Order, the OWNER shall pay CONTRACTOR, in accordance with the Contract Documents, the Contract Sum of:

One Million Four Hundred Fifty-Five Thousand Six Hundred Ninety-Four & 00/100 Dollars
(\$1,455,694.00)

The Contract Sum shall include all items and services necessary for the proper execution and completion of the Work.

ARTICLE 5 – INSURANCE AND INDEMNIFICATION

CONTRACTOR shall carry and maintain in effect during the performance of services under this contract:

- General liability insurance in the amount of \$1,000,000 per occurrence; \$2,000,000 aggregate;
- Motor Vehicle Liability: \$1,000,000 Combined Single Limit;
 ***Coverage must include all owned, non-owned and hired vehicles.**
- Workers' Compensation Coverage in compliance with the State of NH Statutes, \$100,000/\$500,000/\$100,000.

CONTRACTOR and SUBCONTRACTORS at every tier will fully comply with NH RSA Chapter 281-A, "Workers' Compensation".

The parties agree that CONTRACTOR shall have the status of and shall perform all work under this contract as an independent CONTRACTOR, maintaining control over all its consultants, sub consultants, CONTRACTORS, or SUBCONTRACTORS. The only contractual relationship created by this contract is between the OWNER and CONTRACTOR, and nothing in this contract shall create any contractual relationship between the OWNER and CONTRACTOR's consultants, sub consultants, CONTRACTORS, or SUBCONTRACTORS. The parties also agree that CONTRACTOR is not an OWNER employee and that there shall be no:

1. Withholding of income taxes by the City;
2. Industrial insurance coverage provided by the City;
3. Participation in group insurance plans which may be available to employees of the City;
4. Participation or contributions by either the independent CONTRACTOR or the OWNER to the public employee's retirement system;
5. Accumulation of vacation leave or sick leave provided by the City;
6. Unemployment compensation coverage provided by the City.

CONTRACTOR will provide the OWNER with certificates of insurance for coverage as listed below and endorsements affecting coverage required by the contract within ten calendar days after the OWNER issues the Notice of Award. The OWNER requires thirty days written notice of cancellation or material change in coverage. The certificates and endorsements for each insurance policy must be signed by a person authorized by the insurer and who is licensed by the State of New Hampshire. **General Liability and Auto Liability policies must name the OWNER as an additional insured** and reflect on the certificate of insurance. CONTRACTOR is responsible for filing updated certificates of insurance with the OWNER's Risk Management Department during the life of the contract.

- All deductibles and self-insured retentions shall be fully disclosed in the certificate(s) of insurance.

- If aggregate limits of less than \$2,000,000 are imposed on bodily injury and property damage, CONTRACTOR must maintain umbrella liability insurance of at least \$1,000,000. All aggregates must be fully disclosed on the required certificate of insurance.
- The specified insurance requirements do not relieve CONTRACTOR of its responsibilities or limit the amount of its liability to the OWNER or other persons, and CONTRACTOR is encouraged to purchase such additional insurance, as it deems necessary.
- The insurance provided herein is primary, and no insurance held or owned by the OWNER shall be called upon to contribute to a loss.
- CONTRACTOR is responsible for and required to remedy all damage or loss to any property, including property of the City, caused in whole or part by CONTRACTOR or anyone employed, directed, or supervised by CONTRACTOR.

Regardless of any coverage provided by any insurance, CONTRACTOR agrees to indemnify and shall defend and hold harmless the City, its agents, officials, employees and authorized representatives and their employees from and against any and all suits, causes of action, legal or administrative proceedings, arbitrations, claims, demands, damages, liabilities, interest, attorney's fees, costs and expenses of any kind or nature in any manner caused, occasioned, or contributed to in whole or in part by reason of any negligent act, omission, or fault or willful misconduct, whether active or passive, of CONTRACTOR or of anyone acting under its direction or control or on its behalf in connection with or incidental to the performance of this contract. CONTRACTOR's indemnity, defense and hold harmless obligations, or portions thereof, shall not apply to liability caused by the sole negligence or willful misconduct of the party indemnified or held harmless.

General Terms and Conditions

ARTICLE 6 – GENERAL PROVISIONS

1. The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a written modification.
2. The term “Work” means the construction and services required by the Contract Documents, and include all other labor, materials, equipment and services provided by the CONTRACTOR to fulfill the CONTRACTOR’s obligations.
3. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the CONTRACTOR. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all.
4. In the case of a discrepancy, calculated dimensions will govern over scaled dimensions, Contract Drawings will govern over Standard Specifications, and Technical Specifications will govern over both Contract Drawings and Standard Specifications. In the case of a discrepancy between the Agreement and other Contract Documents, the more specific or stringent obligation or requirement to the benefit of the OWNER shall take precedence.
5. The CONTRACTOR shall take no advantage of any apparent error or omission in the Contract Drawings or Technical Specifications, and the Engineer will be permitted to make such corrections and interpretations as may be deemed necessary to fulfill the intent of the Contract Documents.

ARTICLE 7 – OWNER

1. Except for permits and fees, which are the responsibility of the CONTRACTOR under the Contract Documents, the OWNER shall obtain and pay for other necessary approvals, easements, assessments and charges.
2. If the CONTRACTOR fails to correct Work that is not in accordance with the Contract Documents, the OWNER may direct the CONTRACTOR in writing to stop the Work until the correction is made.
3. If the CONTRACTOR defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven day period after receipt of written notice from the OWNER to correct such default or neglect with diligence and promptness, the OWNER may, without prejudice to other remedies, correct such deficiencies. In such case, a Change Order shall be issued deducting the cost of correction from payments due the CONTRACTOR.
4. The OWNER reserves the right to perform construction or operations related to the project with the OWNER’s own forces, and to award separate contracts in connection with other portions of the project.
5. The CONTRACTOR shall coordinate and cooperate with separate CONTRACTORs employed by the OWNER.
6. Costs caused by delays or by improperly timed activities or defective construction shall be borne by the responsible party.

ARTICLE 8 – CONTRACTOR

1. Execution of the Contract by the CONTRACTOR is a representation that the CONTRACTOR has visited the site, become familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.
2. The CONTRACTOR shall carefully study and compare the Contract Documents with each other and with information furnished by the OWNER. Before commencing activities, the CONTRACTOR shall: (1) take field measurements and verify field conditions; (2) carefully compare this and other information known to the CONTRACTOR with the Contract Documents; and (3) promptly report errors, inconsistencies or omissions discovered to the OWNER.
3. Within ten (10) days of notification of award, and prior to commencement of work, the CONTRACTOR shall obtain and forward to OWNER a Performance Bond and a Payment Bond representing 100% of the contract work
4. The CONTRACTOR shall supervise and direct the Work, using the CONTRACTOR's best skill and attention. The CONTRACTOR shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work.
5. The CONTRACTOR, as soon as practicable after award of the Contract, shall furnish in writing to the OWNER the names of SUBCONTRACTORS or suppliers for each portion of the Work. The OWNER will promptly reply to the CONTRACTOR in writing if, after due investigation, he has reasonable objection to the SUBCONTRACTORS or suppliers listed.
6. Unless otherwise provided in the Contract Documents, the CONTRACTOR shall provide and pay for labor, materials, equipment, tools, utilities, transportation, and other facilities and services necessary for proper execution and completion of the work.
7. The CONTRACTOR shall deliver, handle, store and install materials in accordance with manufacturers' instructions.
8. The CONTRACTOR warrants to the OWNER that (1) materials and equipment furnished under the contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the Contract Documents.
9. The CONTRACTOR shall pay sales, consumer, use and similar taxes that are legally required when the Contract is executed.
10. The CONTRACTOR shall obtain and pay for the building permit and other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work.
11. The CONTRACTOR shall comply with and give notices required by agencies having jurisdiction over the Work. If the CONTRACTOR performs Work knowing it to be contrary to laws, statutes, ordinances building codes, and rules and regulations without notice to the OWNER, the CONTRACTOR shall assume full responsibility for such Work and shall bear the attributable costs. The CONTRACTOR shall promptly notify the OWNER in writing of any known inconsistencies in the Contract Documents with such governmental laws, rules and regulations.
12. The CONTRACTOR shall promptly review, approve in writing and submit Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents. Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents.
13. The CONTRACTOR shall confine operations at the site to areas permitted by law, ordinances, permits, the Contract Documents and the OWNER.

14. The CONTRACTOR shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.
15. The CONTRACTOR shall keep the premises and surrounding area free from accumulation of debris and trash related to the Work.
16. CONTRACTOR warrants and guarantees to OWNER, **for 1(one) year**, upon completion of work, that all Work will be in accordance with the Contract Documents and will not be defective. CONTRACTOR's warranty and guarantee hereunder excludes defects or damage caused by:
 - Abuse, modification, or improper maintenance or operation by persons other than CONTRACTOR, SUBCONTRACTORS, Suppliers, or any other individual or entity for whom CONTRACTOR is responsible; or
 - Normal wear and tear under normal usage.

ARTICLE 9 – CHANGES IN THE WORK

1. After execution of the Contract, changes in the Work may be accomplished by Change Order or by order for a minor change in the Work. The OWNER, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly.
2. A Change Order shall be a written order to the CONTRACTOR signed by the OWNER to change the Work, Contract Sum or Contract Time.
3. Change Order requests must include material and equipment cost plus labor with a profit margin of no more than 10%. Change Orders may require approval by the OWNER Finance Committee vote prior to proceeding.
4. The OWNER will have authority to order minor changes in the Work not involving changes in the Contract Sum or the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be written orders and shall be binding on the OWNER and CONTRACTOR. The CONTRACTOR shall carry out such written orders promptly.
5. If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time shall be subject to equitable adjustment following authorization of the OWNER to the charges.

ARTICLE 10 – TIME

1. Time limits stated in the Contract Documents are of the essence to the Contract.
2. If the CONTRACTOR is delayed at any time in progress of the Work by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the CONTRACTOR's control, the Contract Time shall be extended by Change Order for such reasonable time as may be determined.

ARTICLE 11 – PAYMENTS AND COMPLETION

1. The Contract Sum stated in the Agreement, including authorized adjustments, is the total amount payable by the OWNER to the CONTRACTOR for performance of the Work under the Contract Documents.
2. At least ten days before the date established for each progress payment, the CONTRACTOR shall submit an itemized Application for Payment for operations completed in accordance

with the values stated in the Agreement. Such application shall be supported by such data substantiating the CONTRACTOR's right to payment as the OWNER may reasonably require.

3. Application for Payment performed under this agreement shall be submitted directly to:

OWNER
Accounts Payable
PO Box 2019
Nashua, NH 03061-2019
Attn: Jeanne Walker

To facilitate the proper and timely payment of applications, the OWNER requires that all applications contain a valid **PURCHASE ORDER NUMBER**.

4. The CONTRACTOR warrants that title to all Work covered by an Application for Payment will pass to the OWNER no later than the time of payment. The CONTRACTOR further warrants that upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the OWNER shall, to the best of the CONTRACTOR's knowledge, information and belief, be free and clear of liens, claims, security interests or other encumbrances adverse to the OWNER's interests.
5. OWNER shall make payments on the basis of CONTRACTORs Application for Payment, approximately **30** days from the time the **final** payment application is received by the OWNER, depending upon the timing of submittals and approvals.
6. The CONTRACTOR shall promptly pay each SUBCONTRACTOR and material supplier out of the amount paid to the CONTRACTOR on account of such entities' portion of the Work.
7. The OWNER shall have no responsibility for the payment of money to a SUBCONTRACTOR or material supplier.
8. An Application for Payment, a progress payment, or partial or entire use or occupancy of the project by the OWNER shall not constitute acceptance of Work not in accordance with the requirements of the Contract Documents.
9. Substantial completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the OWNER can occupy or utilize the Work for its intended use.
10. When the Work or designated portion thereof is substantially complete, the CONTRACTOR and OWNER shall establish responsibilities for completion and shall fix the time within which the CONTRACTOR shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.
11. Upon receipt of a final Application for Payment, the OWNER will inspect the Work. When he finds the Work acceptable and the Contract fully performed, the OWNER will promptly issue a final Certificate for Payment.
12. Acceptance of final payment by the CONTRACTOR, a SUBCONTRACTOR or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 12- RETAINAGE

1. The OWNER will retain a portion of the progress payment, each month, in accordance with the following procedures:

- a. The OWNER will establish an escrow account in the bank of the OWNER'S choosing. The account will be established such that interest on the principal will be paid to the CONTRACTOR. The principal will be the accumulated retainage paid into the account by the OWNER. The principal will be held by the bank, available only to the OWNER, until termination of the contract.
 - b. Until the work is 50% complete, as determined by the ENGINEER, retainage shall be 10% of the monthly payments claimed. The computed amount of retainage will be deposited in the escrow account established above.
 - c. After the work is 50% complete, and provided the CONTRACTOR has satisfied the ENGINEER in quality and timeliness of the work, and provided further that there is no specific cause for withholding additional retainage no further amount will be withheld. The escrow account will remain at the same balance throughout the remainder of the project.
2. Upon final completion and acceptance of the Work, OWNER shall hold 2% retainage during the **1 (one) year** warranty period and release it only after the project has been accepted.

ARTICLE 13- PROTECTION OF PERSONS AND PROPERTY

1. The CONTRACTOR shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Contract. The CONTRACTOR shall promptly remedy damage and loss to property caused in whole or in part by the CONTRACTOR, or by anyone for whose acts the CONTRACTOR may be liable.

ARTICLE 14 – CORRECTION OF WORK

1. The CONTRACTOR shall promptly correct Work rejected by the OWNER as failing to conform to the requirements of the Contract Documents. The CONTRACTOR shall bear the cost of correcting such rejected work.
2. In addition to the CONTRACTOR's other obligations including warranties under the Contract, the CONTRACTOR shall, for a period of one year after Substantial Completion, correct work not conforming to the requirements of the Contract Documents.
3. If the CONTRACTOR fails to correct nonconforming Work within a reasonable time, the OWNER may correct it and the CONTRACTOR shall reimburse the OWNER for the cost of the correction.

ARTICLE 15 – PROHIBITED INTERESTS

CONTRACTOR shall not allow any officer or employee of the OWNER to have any indirect or direct interest in this contract or the proceeds of this contract. CONTRACTOR warrants that no officer or employee of the OWNER has any direct or indirect interest, whether contractual, non-contractual, financial or otherwise, in this contract or in the business of the CONTRACTOR. CONTRACTOR also warrants that it presently has no interest and that it will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this contract. CONTRACTOR further warrants that no person having such an interest shall be employed in the performance of this contract. If any such interest comes to the attention of CONTRACTOR at any time, a full and complete disclosure of the interest shall be immediately made in writing to the City. If OWNER determines that a conflict exists and was not disclosed to the City, it may terminate the contract at will or for cause.

ARTICLE 16 – TERMINATION OF THE CONTRACT

1. **Termination, Abandonment, Or Suspension At Will.** The OWNER, in its sole discretion, shall have the right to terminate, abandon, or suspend all or part of the project and contract at will. If the OWNER chooses to terminate, abandon, or suspend all or part of the project, it shall provide CONTRACTOR 10 day's written notice of its intent to do so.

If all or part of the project is suspended for more than 90 days, the suspension shall be treated as a termination at will of all or that part of the project and contract.

Upon receipt of notice of termination, abandonment, or suspension at will, CONTRACTOR shall:

- a. Immediately discontinue work on the date and to the extent specified in the notice.
- b. Provide the OWNER with a list of all unperformed services.
- c. Place no further orders or sub-contracts for materials, services, or facilities, other than as may be necessary or required for completion of such portion of work under the contract that is not terminated.
- d. Immediately make every reasonable effort to obtain cancellation upon terms satisfactory to the OWNER of all orders or sub contracts to the extent they relate to the performance of work terminated, abandoned, or suspended under the notice, assign to the OWNER any orders or sub contracts specified in the notice, and revoke agreements specified in the notice.
- e. Not resume work after the effective date of a notice of suspension until receipt of a written notice from the OWNER to resume performance.

In the event of a termination, abandonment, or suspension at will, CONTRACTOR shall receive all amounts due and not previously paid to CONTRACTOR for work satisfactorily completed in accordance with the contract prior to the date of the notice and compensation for work thereafter completed as specified in the notice. No amount shall be allowed or paid for anticipated profit on unperformed services or other unperformed work.

2. **Termination for Cause.** This agreement may be terminated by the OWNER on 10 calendar day's written notice to CONTRACTOR in the event of a failure by CONTRACTOR to adhere to any or all the terms and conditions of the contract or for failure to satisfactorily, in the sole opinion of the OWNER, to complete or make sufficient progress on the work in a timely and professional manner. CONTRACTOR shall be given an opportunity for consultation with the OWNER prior to the effective date of the termination. CONTRACTOR may terminate the contract on 10 calendar days written notice if, through no fault of CONTRACTOR, the OWNER fails to pay CONTRACTOR for 45 days after the date of approval by the OWNER of any Application for Payment.

Upon receipt of notice of termination for cause, CONTRACTOR shall:

- a. Immediately discontinue work on the date and to the extent specified in the notice.
- b. Provide the OWNER with a list of all unperformed services.
- c. Place no further orders or sub-contracts for materials, services, or facilities, other than as may be necessary or required for completion of such portion of work under the contract that is not terminated.

- d. Immediately make every reasonable effort to obtain cancellation upon terms satisfactory to the OWNER of all orders or sub contracts to the extent they relate to the performance of work terminated, abandoned, or suspended under the notice, assign to the OWNER any orders or sub contracts specified in the notice, and revoke agreements specified in the notice.
- e. Not resume work after the effective date of a notice of termination unless and until receipt of a written notice from the OWNER to resume performance.

In the event of a termination for cause, CONTRACTOR shall receive all amounts due and not previously paid to CONTRACTOR for work satisfactorily completed in accordance with the contract prior to the date of the notice, less all previous payments. No amount shall be allowed or paid for anticipated profit on unperformed services or other unperformed work. Any such payment may be adjusted to the extent of any additional costs occasioned to the OWNER by reasons of CONTRACTOR's failure. CONTRACTOR shall not be relieved of liability to the OWNER for damages sustained from the failure, and the OWNER may withhold any payment to the CONTRACTOR until such time as the exact amount of damages due to the OWNER is determined. All claims for payment by the CONTRACTOR must be submitted to the OWNER within 30 days of the effective date of the notice of termination.

If after termination for the failure of CONTRACTOR to adhere to any of the terms and conditions of the contract or for failure to satisfactorily, in the sole opinion of the OWNER, to complete or make sufficient progress on the work in a timely and professional manner, it is determined that CONTRACTOR had not so failed, the termination shall be deemed to have been a termination at will. In that event, the OWNER shall, if necessary, make an adjustment in the compensation paid to CONTRACTOR such that CONTRACTOR receives total compensation in the same amount as it would have received in the event of a termination-at-will.

General Provisions for Termination. Upon termination of the contract, the OWNER may take over the work and prosecute it to completion by agreement with another party or otherwise. Upon termination of the contract or in the event CONTRACTOR shall cease conducting business, the OWNER shall have the right to solicit applications for employment from any employee of the CONTRACTOR assigned to the performance of the contract. Neither party shall be considered in default of the performance of such obligations is prevented or delayed by any cause, existing or future, which is beyond the reasonable control of such party. Delays arising from the actions or inactions of one or more of CONTRACTOR's principals, officers, employees, agents, sub-contractors, sub consultants, vendors, or suppliers are expressly recognized to be within CONTRACTOR's control.

ARTICLE 17- CHOICE OF LAW AND VENUE

This contract shall be governed exclusively by the laws of the State of New Hampshire and any claim or action brought relating to this contract, the work performed or contracted to be performed thereunder, or referable in anyway thereto shall be brought in Hillsborough County (New Hampshire) Superior Court Southern Judicial District or in the New Hampshire 9th Circuit Court—Nashua and not elsewhere.

ARTICLE 18– MISCELLANEOUS PROVISIONS

1. Neither party to the Contract shall assign the Contract as a whole without written consent of the other.
2. Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time.
3. If additional testing is required, the CONTRACTOR shall perform these tests.
4. The OWNER shall pay for tests except for testing Work found to be defective for which the CONTRACTOR shall pay.

OWNER (signature)

CONTRACTOR (signature)

James Donchess, Mayor
(Printed Name and Title)

(Printed Name and Title)

Date

Date